MARRIAGE & MORALS IN ISLAM



Sayyid Muhammad Rizvi

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Preface to the First Edition

This book is the result of a need which I sensed after my first three years in Canada. A person in my position as a religious guide is always confronted by people with questions related to their religious and personal problems. Unlike the atmosphere in the East where the contact is more on a personal level, the contact in this part of the world is more through correspondence and telephone calls. I soon realized that whenever the question was 'embarrassing' or related to sexual behavior, the caller would prefer not to give his or her name. And, of course, I had no reason to insist on knowing the identity of the callers; my only duty is to listen and convey the Islamic view to those who seek.

However, what was most interesting about these 'embarrassing' questions was that in majority of cases the callers were feeling guilty for actions that were absolutely permissible in Islam. But because of their ignorance or misinformation, they had been feeling guilty for things which were not at all forbidden in the Islamic shari'ah. And I said to myself: There must be many more people out there who are going through similar experience, feeling guilty and depressed; and all this because of ignorance! Not all have the courage to talk on such issues or even call without revealing their identity. And so I decided that I have to do something.

I started writing on the sexual morality of Islam. This was in 1986. When I finished the initial draft, I thought that the material might be considered too controversial, and so I decided to test the water before publishing the book. A lecture on 'Sex and Marriage in Islam' was organized on November 9, 1986 at the Shi'a Muslim Community Center in Vancouver. The vast majority of the community members responded very positively. A lady from the audience wrote a letter which expresses the reaction of the majority. She wrote:

"Thank you very much for the excellent lecture you delivered us on Sunday, November 9th. I must say that you are very brave and you presented the material with great calmness and poise. So far we have never had a Maulana who shared such an invaluable knowledge to educate our community... From my own experience, your educative lecture has clarified many doubts as to what is allowed in our shari'ah..."

Later on I came to know that the video cassette of the lecture was sent to different places as far as England and East Africa. Since I had mentioned in the video that this is the draft of a forth-coming book, I started getting inquiries about it. The response further encouraged me

to go ahead with the publication of the book. However, the publication was, unfortunately, delayed for three years because of my involvement in some other activities. During the last months of 1989, Almighty Allah blessed me with the opportunity to finalize the book. While finalizing the book, I started adding many discussions which eventually doubled the size of the initial draft of 1986 and increased its academic value. This, I hope, will redeem me in the eyes of my readers for the three years delay.

* * *

Chapter One gives a short historical review of the Western sexual morality. This sets the tone for the next chapter which presents the basic view of Islam on marriage and sex. In this chapter, I have also critically reviewed the ideas of an Arab feminist, Fatima Mernissi, on woman's sexuality in Islam. The remaining three chapters deal with the practical aspects of marriage: sexual relations; contraceptives and abortion; and new techniques in human reproduction.

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In the last three chapters of the book, the reader will find a variety of opinions among the Shi'ah *mujtahids.* (*Mujtahids* means jurists, the experts of Islamic laws.) The difference of opinion is an essential part of *ijtihad* which is still a live institution in Shi'ah Islam. I have also clearly given the opinions of the most high-ranking Shi'ah *mujtahids* of our time, in particular Ayatullah al-'uzma Sayyid Abu 'l-Qasim al-Musawi al-Khu'i and the late Ayatullah al-'uzma al-Imam Sayyid Ruhullah al-Musawi al-Khumayni.

However, I must clarify at the very outset that there are some issues on which the present writer has given his own opinions. This has been done mostly in those cases where the present *mujtahids* have no opinion. In any case, since all the views have been mentioned clearly, the *muqallidin* (followers) of the present *mujtahids* can use this book without any concern about the validity of their actions.

I hope this book will receive even better reception than the video of 1986; and I pray to Allah, *subhanahuwa ta'ala,* to guide me to the best of opinions and accept this work as a small contribution towards serving Islam. *Inna rabbi la Sami'u 'd-du'a.*

S. M. Rizvi
Richmond, B.C.
Jamadi II 1410
January 1990

Preface to the Second Edition

The first edition (1990) of this book was very well received by the readers around the globe. It was reprinted in Iran by a publisher whose foreign language publications are distributed all over the world. Its excerpts have been published in magazines in India, South Africa and also in Norwegian language. In 1993, Mr. M. H. Assagaf translated *Marriage & Morals in Islam* into Indonesian, a language used, according to him "by the people of Indonesia (170 million), Malaysia, Brunei and parts of Singapore and Thailand."

In 1993, I revised and expanded the previous edition. Besides correcting the spelling mistakes and minor changes and additions to the text and footnotes, two sub-sections "Whom Can You Marry?" and "The *'Aqd*" were added in Chapter Three, and the section on "Sources of the *Shari'ah*" was moved from the Introduction to the end of the book as Appendix I. I have also added a section on "The Major Ablution: Ghusl Janabat" as Appendix II.

I hope this edition proves more useful to the seekers of truth. *Wa ma tawfiqi illa bi 'l-lah.*

Jamadi I, 1415
October 1994
S. M. Rizvi
Toronto, Canada

A. WHY THIS BOOK?

WRITERS do not normally have to justify their subject. If they think that what they are writing will be useful to the people in their practical life or in their intellectual pursuit, then they feel no need to justify their work. The present book has both qualities: it is useful and of intellectual interest. But there are many people, even among the Muslims, who think that sex is a taboo subject in all religions. Therefore, it is very appropriate to begin with the question: *Is discussion of sexual morality allowed in Islam?*

To answer this question one has to look at the definition of religion from the Islamic point of view. Anyone who has studied Islam even on surface can easily know that "religion" in Islamic definition is "a complete system of life" which covers all aspects of human life from the day a person is conceived up to the day he or she is laid in grave. Islam is not only concerned with the spiritual upliftment of human beings, it is equally concerned about their material and physical well-being. Islam guides its followers in financial and economic matters, in social and political affairs, and also in moral and personal spheres of human life. In moral and personal matters, Islam has specific dietary guide-lines, hygienic rules, dress codes, and also rules about marriage, divorce and inheritance. The Islamic laws of marriage do not stop at how to marry and whom to marry, it also deals with the sexual morality of human beings. This sexual morality, as we shall see in the following chapters, has been discussed in the Qur'an, and by the Prophet and his Ahlu'l-bayt very thoroughly and openly. Thus there should be no doubt in the mind of anyone about the permission Islam has given for open discussion of sexual morality.

This was about the basic permission which Islam has given to discuss the sexual morality. But this explanation will not be enough for some people who will confront me with the next question: *"Is it necessary to discuss sex?"*

There are three reasons for the necessity of discussing sexual morality. The first reason applies to all Muslims and the other two reasons are relevant to the Muslims in the Western world who are the primary audience of this book.

Firstly, all Muslims agree that it is the duty of every Muslim to follow the *shari'ah* Islamic laws; and the laws of Islam are not confined to prayers, fasting, pilgrimage, and other ritual acts. The shari'ah has specific rules about sex also. Therefore, if a Muslim wants to follow Islam fully, then he or she must know the sexual morality of Islam, just as he or she must

learn how to perform the daily prayers.

Secondly, the necessity of learning the Islamic sexual morality for the Muslims who are exposed to the New Sexual Morality of the West cannot be over-emphasized. At present, the propagandists of the new sexual morality are presenting their ideas through all the available means of communication: books, magazines, television, movies and videos. The Muslims in the Western world are, in one way or another, exposed to the unIslamic sexual norms of the West. (This is an understatement; in reality even the Muslims in the East are exposed to the Western culture!) Therefore, it is absolutely necessary for them to know the Islamic views about sex so they may live an Islamic life.

Thirdly, children in the Western world have excess to sex education to an extent unimaginable by the previous generation, and therefore, it is very important for today's parents to be aware of the right and the wrong in this subject. Only an informed Muslim parent will be able to face this problem correctly and responsibly. These reasons should be a sufficient justification for this book to those who, in the Qur'anic expression, have 'a heart or give ear with a present mind.'

B. SEX EDUCATION

The third reason given above does not necessarily mean that I am in total agreement with the way sex education is handled in the Western school systems. I have no problem with the basic ideas that children should be educated about sex. However, I disagree with the age at which sex education begins and with its contents. This issue by itself deserves a detailed discussion which is beyond the scope of my present study. Nonetheless, I will briefly mention my thoughts on these two issues.

Age:

Sex education should begin in mid-teens when the children become sexually mature. The aim of sex education at this level should be to help them in understanding that they are responsible and accountable for using their sexual organs. They should be taught how to deal with sexual tension. (However, by looking at the proportionally high level of child sexual abuse in the Western world [which reflects the degree of its moral decay], I am prepared to accept those programs for young children which aim at educating them as how to protect themselves from sexual abuse. But this, in my view, is not sex education and therefore would not apply to our present discussion.)

Contents:

In this permissive society, the emphasis on sex education is more on preventing unwanted pregnancy and sexually transmitted diseases. No serious attempt is made in making the youngsters aware of the virtue of chastity and abstinence till they get married. This is not just because the Western society is a secular, liberal society, it is also related to its consumer-

orientated economy. If sex education means only how to prevent unwanted pregnancy and sexually transmitted diseases, then the students learn nothing but the importance of using pills, condoms and other contraceptive devices. In other words, such sex education is nothing but a promotional program for the manufacturers of contraceptive aids ! Germaine Greer, a famous feminist, wrote about promoting contraceptives in the Third world as follows, "The sex reformers, who exhibit no respect for traditional values and address themselves to sexuality without interest in or comprehension of the whole personality, are the bawds of capitalism." (Greer, *Sex and Destiny,* p. 219) I totally agree with her not only in relation to the third world but even in case of the sex education in the West. The reason why sex educators are under pressure not to talk about the natural methods of birth control is not only because such methods are not hundred percent reliable (otherwise, even the condoms are not hundred percent reliable!), the real reason seems to be that if natural methods (like coitus interrupts or abstinence) which involve no expense become more popular, then who will buy the condoms and the pills?

In short I agree with the necessity of sex education for youngsters provided it exhibits respect for their religious and moral values, and addresses the issue comprehensively and not just end up as a promotional program for 'the bawds of capitalism'.

The Western Sexual Morality

Is sex inherently evil? A Muslim would be surprised by this question. Such a thought would never cross his mind. But the relevance of this question to Christianity and the Western world will become clear from the following pages. In the last eighty years, especially after the two World Wars, the sexual morality of the West has undergone a great change which is commonly described as the "sexual revolution. " On the ruins of the dying Christian morality, the west is trying to build a liberal sexual morality known as the "New Sexual Morality". To understand the social and historical background in which the new morality is emerging, we must study the sexual morality of the Christian Church.

A. CHRISTIAN SEXUAL MORALITY

Although Christianity is commonly thought to be a religion based on Jesus Christ's teachings, I use the word "Christianity" in this book for the teachings of the Church establishment. I am justified in doing so because the Bible has recorded nothing from Jesus Christ on marriage and sex. The exception being the sermon condemning visual and physical adultery:

> Ye have heard that it was said by them of old time, Thou shalt not commit adultery. But I say unto you, That whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart. And if thy right eye offend thee, pluck it out, and cast it from thee for it is profitable for thee that one of thy members should perish, and not that thy whole body should be cast into hell. (*Matthew*, 5:27-29)

The first person in Christianity to talk on sexual morality was St. Paul. He says, "It is good for a man not to touch a woman." (*Corinthians I*, 7:1) In simple words this means that the Christian Church teaches that celibacy is better than marriage, and that the human body is not for sexual pleasure but for the Lord only. "The body is not meant for fornication, but for the Lord; and the Lord for the body...Do you know that your bodies are members of Christ? (*Corinthians I*, 6:13,15)

St. Paul knew that celibacy means suppressing human nature but human nature cannot be suppressed. He knew that if marriage is totally forbidden, then people will still indulge in sexual gratification unlawfully. So he says, "Nevertheless, to avoid fornication, let every man have his own wife and every woman have her own husband."(*Corinthians I*, 7:2) Then as if

to prevent the people from forgetting the holiness of celibacy, he continues: "I say this by way of concession, not of command. For I wish that all men were as I myself am...Therefore, I say to the unmarried and the widows that it is good for them to remain singles as I am. But if they cannot exercise self-control, let them marry: for it is better to marry than to burn." (*Corinthians I,* 7:6-9) So marriage, when compared to fornication, is the lesser of two evils!

St. Paul further goes on to describe that marriage means distress: "Now concerning the unmarried...I think that in the view of the present distress it is good for a person to remain as he is...Are you free from a wife? Then do not seek a wife. But if you marry, you do not sin, and if a girl marries, she does not sin. Yet those who marry shall have trouble in flesh." (*Corinthians I,* 7:25-28)

According to the Bible, marriage and pleasing God are antipathetic to each other. St. Paul says, "I want you to be free from anxieties. The unmarried man is anxious about the affairs of the Lord, how to please the Lord, but the married man is anxious about worldly affairs, how to please his wife and his interest is divided...The unmarried woman cares for the affairs of the Lord, that she may be holy in body and spirit; but a married woman cares for worldly affairs, how to please her husband. I say this for your own benefit, not to lay any restraint upon you, but to promote good order and to secure your undivided devotion to the Lord." (*Corinthians I,* 7:32,35) He concludes the Christian position as follows: "So that he who marries his betrothed does *well,* and he who refrains from marrying will do *better*." (*Corinthians I*, 7:38)

So the Christian view on marriage, in its original form, can be summarized as follows:
(a) celibacy is good and should be adopted;
(b) in order to refrain from fornication, marriage is allowed; but it is regrettable and one should try his or her best to avoid it;
(c) marriage retards salvation and is antipathetic to pleasing God.

Three centuries after St. Paul, came a theologian known as St. Augustine. Like his predecessor, he believed that sex was a threat to spiritual upliftment: "I know nothing which brings the manly mind down from the heights more than a woman's caresses and that joining of bodies without which one cannot have a wife."(*Basic Writings of St. Augustine*, p. 455.) He went even further than St. Paul by associating guilt with sex. He acknowledged that was essential for reproduction but argued that the act of sexual intercourse itself was tainted with guilt because of the sin of Adam and Eve. Sexual intercourse was transformed from something innocent to something shameful by the original sin of Adam and Eve, which is passed on from generation to generation.

In his *The City of God,* St. Augustine says, "Man's transgression [i.e., Adam and Eve's sin] did not annul the blessing of fertility bestowed upon him before he sinned, but infected it with the disease of lust." (*The City of God*, p. 21) In short, he preached that: (a) sex was something shameful because of the original sin of Adam and Eve; (b) chastity and celibacy

was of a higher morality than marriage; (c) celibacy was a prerequisite for priests and nuns.

B. THE VICTORIAN ERA

There is no doubt that the survey of the Christian sexual morality is essential for understanding the sexual revolution of this century; but to fully comprehend the historical background in which the new sexual morality has emerged, it is equally important to look at the Victorian era.

"While the Christians in the pre-Victorian era were content with restricting sex to marriage, Victorians were concerned with how best to harness sex and rechannel it to loftier ends. For Victorians a moral man abstained from sex outside of marriage and was highly selective and considerate in sexual expression within marriage. And a moral woman endured these sporadic ordeals and did nothing to encourage them. Pleasure was not an appropriate goal for either sex, but especially not so for a woman." (*Fundamentals of Human Sexuality,* p. 483)

The following can be stated as the sexual morality of the Christian West in the nineteenth century: (a) sex is morally degrading compared to celibacy; (b) sexual passion in human beings is a result of the original sin, therefore sex for pleasure is sinful; (c) sex without pleasure is allowed only with the intention of procreation. At the dawn of the twentieth century, the prevalent view was that sex is inherently evil and is acceptable only as a lesser of two evils of fornication and marriage.

C. THE SEXUAL REVOLUTION

What you read above was a brief historical and social background of the Christian West against which the New Morality was emerging. The Church made a serious error in suppressing the most natural urge of human beings, the very means of their perpetuity. And it is obvious that natural urges can never be suppressed. 'Allamah Rizvi writes:

> If a religion shuts its eyes to the intricacies of family problems, its followers, sooner or later, will revolt against it, destroying all religious tenets in the wake of the rebellion. . .Christianity ignored the claims of human nature, extolling the idea of celibacy. Many zealous people tried to live up to that ideal. Monks and nuns shut themselves in monasteries. For a short period, this scheme worked well. Then nature took its revenge; the monks and abbots cultivated the idea that they were representatives of Christ, and the nuns were given the titles of 'brides of Christ.' So with easy conscience they turned the monasteries into centres of sexual liberties. (*The Family Life of Islam,* p. 8)

Commenting on the attitude of the Christian clergy, Russell writes, "It was only towards the end of the thirteenth century that the celibacy of the clergy was rigidly enforced. The clergy, of course, continued to have illicit relations with women..." (*Marriage and Morals,* p. 64)

Pope John XII was condemned for adultery and incest; the abbot-elect of St. Augustine, at Canterbury, in 1171 was found to have seventeen illegitimate children in a single village; Henry III, Bishop of Leige, was deposed in 1274 for having sixty-five illegitimate children. The writers of the Middle Ages are full of accounts of nunneries that were like brothels, of the vast multitude of infanticides within their walls, and of incest among the clergy which forced the church to announce that priests should not be permitted to live with their mothers and sisters. (*History of European Morals*, vol. II p. 350-351)

This and nothing else could have been the consequence of an unnatural sexual morality. Those who could not suppress their natural urges, indulged in sinful acts secretly; others, like Martin Luther, revolted against the church and started the reformation movement which abandoned celibacy.

And when the Christian Church lost its influence in social affairs of the Western world and a separation between the Church and the state took place, even the lay man revolted. This revolt gained momentum after the two World Wars; and the Christian West started the sexual revolution in reaction to the sexual suppression. A reform movement takes the society from extremes towards moderation; whereas a revolution, in its early stages, takes the society from one extreme to the other. ' Allamah Rizvi comments, "Nature can be compared to a steel spring which, when pressed down, jumps back with equal force. When it took its revenge upon Christians, it turned Christian societies into the most permissive, libertine and undisciplined ones the world had ever seen." (*The Family Life of Islam*, p. 8-9)

Thus the New Morality emerged in the West and leaped to the other extreme. From the extreme of suppressing natural desires, some preachers of the new morality went to the extreme of unrestrained sexual freedom which is the realm of the animal world. They propounded the idea of "sex for fun," "sex for its own sake" and "free sex" which eventually would have completely destroyed the concept of family, the fabric of human society. In the late eighties, it can be said that the spring of nature is returning to its normal position. Katchadourian and Lunde, writing in 1980, say, "The morality of 'sex for fun' or 'sex for its own sake' never appealed to even the majority of the young. The romantic ideals of marriage, fidelity, and a stable home life for rearing children were still very much alive and influential in American life. A new synthesis of values is arising. Many of the changes in sexual attitudes of the 1960s have been retained, but the more radical beliefs have been found to be unacceptable by most people. Many individuals are willing to approve of premarital exploration, but they want to be certain that no one gets hurt. Many have found that 'sex for its own sake' was not as gratifying as it looked when it first became popular; and others have seen so many people hurt by irresponsible sex that they are asking for a new morality of responsible sex." (*Fundamentals of Human Sexuality*, p. 420)

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To summarize, we can say that firstly, the West traveled from one extreme (that of sexual suppression exemplified by the Christian Church) to the other extreme (that of free sex and

sex for fun exemplified by the liberal sexual morality). Secondly, the West has realized that free sex and sex for fun is not acceptable to human sensibilities. Finally, after jumping from one extreme to the other, the West is longing for "a new morality of responsible sex." In our view, the morality of responsible sex is the balanced sexual morality of Islam to which we shall turn soon.

* * *

The reason why I discussed the religious and social background in which the sexual revolution has taken place is to let the Muslims In the West and the East know that this revolution was not a by-product of science and technology per se (although some scientific technologies like contraceptives have made it easier); rather it was a reaction to the suppressive sexual morality of the Christian Church. This, I hope, will also break the myth among many Asians and Africans, especially the elite class, that every behavior and norm of the West is based on sound scientific reasons!

Chapter Two

The Islamic Sexual Morality (I)
Its Foundation

A. DEFINING THE ISLAMIC VIEW

The Islamic sexual morality is fundamentally different from that of the Christian Church. This is because of the all-encompassing nature of the Islamic shari'ah. Bertrand Russell says, "Great religious leaders, with the exception of Muhammad and Confucius, if he can be called religious have in general been very indifferent to social and political considerations, and have sought rather to perfect the soul by meditation, discipline and self-denial." *(Marriage and Morals,* p. 175-176) Yes, Islam has surely not been indifferent to social problems.

The Islamic sexual morality is also fundamentally different from the new sexual morality in a sense that it does not accept the concept of free sex. Islam aims at teaching its followers not to suppress their sexual urges, rather to fulfill them but in a responsible way.

Islam recognizes the sexual needs of human beings and believes that the natural instincts should be nurtured, not suppressed. Islam says that the biological parts of our body have a purpose, they have not been created uselessly. No text in Islam can be found to equate sex with inherent evil or sin; whatever has been taught by the Qur'an, Prophet Muhammad and his Ahlu'l-bayt points in the opposite direction. What the Qur'an and the authentic sunnah and I emphasize on authentic have said about sex and marriage will now be discussed under the following headings: Islam has very highly recommended marriage as a good deed and not as a lesser of two evils; Islam has very strongly opposed celibacy and monasticism, and Islam believes that marriage is not a hindrance in spiritual wayfaring, on the contrary it helps the wayfarer.

1. MARRIAGE IS HIGHLY RECOMMENDED

It is important to realize that in Islamic texts the idea of marriage is not restricted to a platonic relationship between husband and wife, nor is it confined to sex for the purpose of procreation . The legal term for marriage is *"nikah"* which literally means sexual intercourse.

Marriage is a highly recommended deed. Allah says, *"Marry the spouseless among you...if they are poor, God will enrich them of His bounty."*(Qur'an 24:32) The first word of this verse begins with *"ankihu"* (Marry!) which is an imperative form of the word *nikah.* According to the principles of Islamic jurisprudence, any communication in imperative form from God can have two levels of meaning: either it is an obligatory command or a very high

recommendation. And therefore we see that in Islam celibacy is not considered as a virtue. Based on this verse we find the Prophet saying that, "Whoever refrains from marriage because of fear of poverty, he has indeed thought badly of God." (*Wasa'ilu 'sh-Shi'ah*, vol. 14, p. 24) In another verse Allah says, *"... Then marry such women as seem good to you two, three or four. But if you fear that you will not do justice between your wives, then marry only one... "*(4:3)

Sex has been openly recommended in the Qur'an, *"When they [i.e., the wives] have cleansed themselves [after menstruation], you go into them as Allah has commanded."* (2:222) The phrase 'commanded you' does not refer to any legislative command; that is, it does not mean that as soon as a person's wife becomes clean from her period, he should immediately have sex with her. It is a creative command and refers to the sexual urge which Allah has placed in our nature. And when the sexual urge is counted as a creative command of God, then who can associate it in any way with sin and evil?!

Marriage and sex are among the signs of God's power and blessings. The Qur'an says, *"And among His signs is that He has created for you spouses from among yourselves so that you may live in tranquility with them; and He has created love and mercy between you. Verily, in that are signs for those who reflect."*(30:21)

From these few verses of the Qur'an, one can easily understand that according to Islam: (a) marriage is a sign of God's power and blessings; (b) marriage is a highly recommended act of virtue which should not be avoided because of poverty; (c) sexual urge is a creative command of God placed in human nature. After equating sex with Allah's creative command, there can be no room for equating it with guilt, sin or evil.

* * *

The Prophet and the Imams of Ahlu'l Bayt also encouraged their followers to marry and to fulfill their sexual urges in lawful ways as can be seen from the following: The Prophet said, "No house has been built in Islam more beloved in the sight of Allah than through marriage." (*Wasa'il,* vol. 14, p. 3) The Prophet said, "O you young men! I recommend marriage to you." (*Wasa'il,* vol. 14, p. 25) Imam 'Ali said, "Marry, because marriage is the tradition of the Prophet. The Prophet said, 'Whosoever likes to follow my tradition, then he should know that marriage is from my tradition.'" (*Wasa'il*, vol. 14, p. 3-4, 6) Imam Riza said, "Three things are from the traditions of the messengers of God: using perfume, removing the [excessive] hair and frequently visiting one's wife." (*Wasa'il,* Vol. 14, p. 4) Ishaq bin 'Ammar quotes Imam Ja'far as-Sadiq as follows: "Loving women is among the traditions of the prophets." (*Wasa'il,* Vol. 14, p. 9)

The Prophet said, "Prayer has been made the apple of my eyes, and my pleasure is in women." (*Wasa'il,* Vol. 14, p. 10) See with what ease the Prophet moves from prayers to the pleasure of women! The Prophet said, "No Muslim man has gained a benefit after [the religion of] Islam better than a Muslim wife who is a cause of his pleasure whenever he

looks towards her..." (*Wasa'il,* Vol. 14, p. 23) Imam Muhammad al-Baqir quotes the Prophet as follows: "Allah says that, 'Whenever I intend to gather the good of this world and the hereafter for a Muslim, I give him a heart which is humble [to Me], a tongue which praises [Me], a body which can bear [worldly] affliction and a believing wife who is a cause of his pleasure whenever he looks towards her and who protects herself and his property when he is absent." (*Wasa'il,* Vol. 14, p. 23) See with what ease Allah has combined His praise with the pleasure a man derives from a faithful wife!

Jamil bin Darraj quotes Imam Ja'far as-Sadiq saying, "Mankind has not enjoyed [anything] in this world and the hereafter more than the desire for women. Allah says, '*The love of desire of women has been made to seem fair to people.'*[3 :14] The people of the Paradise do not enjoy anything from it more desirable than sex, neither food nor drink." (*Wasa'il,* Vol. 14, p. 10)

2. CELIBACY & MONASTICISM IS FORBIDDEN

The Islamic point of view about the worldly good things is not negative, rather it says that we should appreciate them as the blessings of God. And Islam is, therefore, totally opposed to monasticism and celibacy. 'Uthman bin Maz'un was a close companion of the Prophet. One day his wife came to the Prophet and complained, "O the Messenger of God! 'Uthman fasts during the day and stands for prayers during the night." In other words, she meant to say that her husband was abstaining from sexual relations during the night as well as the day. The Prophet was so much angered with this that he did not even wait to put on his slippers. He came out with the slippers in his hands and went to 'Uthman's house. The Prophet found him praying. When 'Uthman finished his prayers and turned towards the Prophet, the latter said, "O 'Uthman! Allah did not send me for monasticism, rather He sent me with a simple and straight*[shari'ah]*. I fast, pray and also have intimate relations with my wife. So whosoever likes my tradition, then he should follow it; and marriage is one of my traditions. (*Wasa'il,* Vol. 14, p. 10) Since 'Uthman was already married, the word "marriage" in this hadith can only be applied to sexual relations.

In another incident, three women came to the Prophet and complained that their husbands were abstaining from meat, perfume and intimate relations with their wives. The Prophet quickly came to the mosque, went on the pulpit and said, "What has happened to some of my companions that they do not eat meat, they do not use perfume and they do not go to their women?! Whereas I eat meat, use perfume and go to my wives. Therefore whosoever dislikes my tradition, then he is not from me. (*Wasa'il,* Vol. 14, p.4)

Ibn Abu 'Umayr quotes that Sikkin an-Nakha'i had devoted himself to prayers and abstinence from women and delicious food. Then he wrote a letter to Imam Ja'far as-Sadiq seeking clarification about his actions. The Imam wrote, "As for what you have said about abstaining from women, you surely know how many women the Prophet had! As for food, the Prophet used to eat meat and honey." (*Wasa'il,* Vol. 14, p. 4) The Imam is obviously condemning the holier-than-thou attitude of his companion.

Imam 'Ali narrates that some companions of the Prophet had vowed to abstain from sexual relations with their wives, from eating during the day and from sleeping during the night. Umm Salamah, the Prophet' s wife, informed him about this group. The Prophet went out to his companions and said, "Do you abstain from women whereas I go to the women?! I eat during the day and sleep during the night! Whosoever dislikes my tradition, then he is not from me." After this speech, Allah revealed the following verse:

> O you who believe! Do not forbid [for yourselves] the good things which Allah has permitted you; and do not exceed [the law] Allah does not like those who exceed [the law]. Therefore eat of the lawful and good things that Allah has provided you, and fear Allah in whom you believe. (5:87-8)

Read this verse carefully and see that firstly, it counts sex, food and sleep among "the lawful and good things which Allah has permitted you;" and secondly celibacy and abstinence is considered as "exceeding the law of God." After this verse was revealed, those companions came to the Prophet and said, "O Messenger of God! We have taken oath to abstain from those things." That is, how can we now break our oath of abstinence? Then Allah revealed the following verse *"Allah will not call you [to account] for vain oaths... "*(5:84) Again, note that an oath of celibacy or abstinence from the good and lawful things is considered by Islam as 'vain oaths!' (*Wasa'il,* Vol. 14, p. 8-9)

The discouraging of celibacy is not confined to men, even women have been discouraged from remaining single. Imam Ja'far as-Sadiq said, "The Prophet has forbidden the women to become ascetic and to prevent themselves from husbands." (*Wasa'il,* Vol. 14, p. 117)

'Abdus Samad bin Bashir quotes that a woman came to Imam Ja'far as-Sadiq and said, "May God bless you; I am an ascetic woman."

The Imam: "What does asceticism mean to you?"

The woman: "It means that I will never marry."

The Imam: "Why?"

The woman: "By practicing asceticism, I want to acquire favor (of God)."

The Imam: "Go away! If asceticism was a means of acquiring favor (of God), then Fatimah would have been more entitled to it than you because none can gain more favor [in the eyes of Allah] than her." (*Wasa'il,* Vol. 14, p. 117-118)

A similar incident is also narrated in relation to Imam Riza.

The Prophet said, "The most low [in status] among your dead are the singles." (*Wasa'il,* Vol. 14, p. 7)

Imam Ja'far as-Sadiq says that a person came to my father. My father asked him, "Do you have a wife? " He said, "No. " My father said, "I would not prefer to have the world with all its riches while I sleep at night without a wife." (*Wasa'il,* Vol. 14, p.7)

3. MARRIAGE HELPS IN SPIRITUALITY

In Islam, contrary to Christianity, marriage and sex are not antipathetic to the love for and worship of God. Instead of an obstacle, marriage is regarded as an asset in acquiring spiritual perfection.

The Prophet said, "One who marries has already guarded half of his religion, therefore he should fear Allah for the other half." (*Wasa'il,* Vol. 14, p.5) A person who can fulfill his sexual urges lawfully is less distracted in the spiritual journey. Love for women and faith are inter-related. In one hadith, 'Umar bin Zayd quotes Imam Ja'far as-Sadiq that, "I do not think that a person's faith can increase positively unless his love for women has increased." (*Wasa'il,* Vol. 14, p.9) The same Imam said, "Whenever a person's love for women increases, his faith increases in quality." (*Wasa'il,* Vol. 14, p.11) He also said, "Whosoever's love for us increases, his love for women must also increase." (*Wasa'il,* Vol. 14, p.11)

Marriage even elevates the value of prayers. The Prophet said, "Two rak 'ats (cycles) prayed by a married person is better than the night-vigil and the fast of a single person." (*Wasa'il,* Vol. 14, p.7) Ibn Fuzzal quotes Imam Ja'far as-Sadiq saying that, "Two rak'ats prayed by a married person is better than seventy rak'ats prayed by a single person." (*Wasa'il,* Vol. 14, p.6)

The Prophet said, "If anyone likes to meet Allah in purity, then he should meet Him with a wife." (*Wasa'il,* Vol. 14, p. 25)

A woman came to the Prophet's house and her strong perfume soon filled the house. When the Prophet inquired about the visitor, the woman said that she had tried everything to attract her husband but in vain; he does not leave his meditation to pay any attention to her.

The Prophet told her to inform her husband about the reward of sexual intercourse which he described as follows: "When a man approaches his wife, he is guarded by two angels and [at that moment in Allah's views] he is like a warrior fighting for the cause of Allah. When he has intercourse with her, his sins fell like the leaves of the tree [in fall season]. When he performs the major ablution, he is cleansed from sins. (*Wasa'il 'sh-Shi'ah,* Vol. 14, p. 74)

* * *

These quotations from the Qur'an and the sayings of the Prophet and the Imams of Ahlu'l-bayt show that the Islamic view on sex and marriage is in complete harmony with human nature. It can easily be concluded that in the Islamic sexual morality: (a) marriage and sex is

highly recommended and it is in no way associated with evil, guilt or sin; (b) monasticism and celibacy is unacceptable; (c) marriage is considered a helping factor in attaining spiritual perfection it prevents the Muslims from getting into sins and also enhances the value of their acts of worship. These teachings neutralize the need for a sexual revolution in a Muslim society. Since there is no sexual suppression, the question of a sexual revolution does not arise.

The Islamic Sexual Morality (I)
Its Foundation

B. DEFENDING THE ISLAMIC VIEW
There are many non-Muslim writers, especially of liberal and feminist ideology, who have attacked the Islamic view of woman's sexuality. Their criticism is mostly based on some misconceived ideas about the Islamic sexual morality. Basically there are two problems with these writers: either they study Islam based on some Western social theories and models, or they are ill-equipped to study the original Islamic sources. They rely mostly on the work done on Islam by the Orientalists or the European travelers of the past centuries. In some cases, books like *Thousand and One Nights* and *The Perfumed Garden* are used to explain the Islamic view on women's sexuality! These books, at the most, reflect the Arab view of female sexuality not the Islamic view. Therefore, these writings do not even deserve refutation.

However, for our discussion I have selected the work of an Arab feminist writer, Fatima Mernissi. The reason for commenting on her work is that she is an Arab writer who had easy excess to Islamic literature and *hadith*, in particular *Ihyau 'Ulumi 'd-Din* of the famous Sunni scholar Imam Abu Hamid al-Ghazali (d. 1111 C.E.). Moreover, Mernissi's book has been translated into various European and Asian languages and is becoming popular as an insider's report!

1. MERNISSI'S VIEWS

Fatima Mernissi's book, *Beyond the Veil* subtitled as "Male-Female Dynamics in Modern Muslim Society," is a study of the male-female relationship in the present Moroccan society. It is important to bear in mind that the attitude of the Muslims of Morocco does not necessarily represent Islam. However, Mernissi has discussed the Islamic sexual morality in a chapter entitled as "The Muslim Concept of Active Female Sexuality." The main part of her discussion centers on the comparison between the views of Freud and Ghazali on female sexuality. Mernissi has summarized her conclusion as follows:

> The irony is that Muslim and European theories come to the same conclusion: women are destructive to the social order for Imam Ghazali because they are active, for Freud because they are not.

Then she goes on to describe the negative attitude of the Christian West and the positive

attitude of Islam towards sexuality in general. She writes:

> Different social orders have integrated the tensions between religion and sexuality in different ways. In the Western Christian experience sexuality itself is attacked, degraded as animality and condemned as anti-civilization. The individual is split into two antithetical selves: the spirit and the flesh, the ego and the id. The triumph of civilization implied the triumph of soul over flesh, of ego over id, of the controlled over the uncontrolled, of spirit over sex. Islam took a substantially different path. What is attacked and debased is not sexuality but women, as the embodiment of destruction, the symbol of disorder. The woman is fitna, the epitome of the uncontrollable, a living representative of the dangers of sexuality and its rampant disruptive potential... Sexuality per se is not a danger. On the contrary it has three positive, vital functions... (*Beyond the Veil,* p.44)

After describing the positive side of Islamic sexual morality, Mernissi attacks the concept of female sexuality in Islam as she has understood it from Ghazali's writings:

> According to Ghazali, the most precious gift God gave humans is reason. Its best use is the search for knowledge...But to be able to devote his energies to knowledge, man has to reduce the tensions within and without his body, avoid being distracted by external elements, and avoid indulging in earthly pleasures. Women are dangerous distraction that must be used for the specific purpose of providing the Muslim nation with offspring and quenching the tensions of the sexual instinct. But in no way should women be an object of emotional investment or the focus of attention. which should be devoted to Allah alone in the form of knowledge-seeking, meditation, and prayer. (*Beyond the Veil,* p.45)

The conclusion which this ardent Arab feminist describes as the Islamic view can be summarized as follows: (a) Women are considered sexually active in the Islamic view; (b) therefore, women are a danger to the social order. (c) There should be no emotional investment in women; that is, a man should have no love for his wife. (d) Why should there be no love between husband and wife? Mernissi would answer that love should be exclusively devoted to Allah. Now let us deal with each of these premises and conclusions gradually and see whether or not they are based on any reliable Islamic sources.

(A)WOMEN ARE CONSIDERED SEXUALLY ACTIVE IN ISLAM

The statement that in Islam women are considered sexually active, can mean two different things: either they are more sexually active than men or they are as sexually active as men. In the first sense, it would mean that women have a stronger sex drive; and in the second sense, it would mean that women are as normal as men in their sexuality. By looking at the context of Mernissi's writing, I would be justified in saying that she is using this statement in the first sense, that is, women are more sexually active than men.

In my study of the Qur'an and authentic *ahadith* on this subject, I have not come across any statement which says that women are more sexually active than men. I can say with confidence that as far as Islam is concerned, there is no difference between the sexuality of men and women. There are, however, certain *ahadith* which can be used by Mernissi to prove that women are more sexually active than men provided she decides to stick to one part of those *ahadith* and ignore the other part! It is obvious that such partial use of *hadith* is an unacceptable academic exercise.

For example, in one such *hadith*, Asbagh bin Nubatah quotes Imam 'Ali as follows: "Almighty God has created the sexual desire in ten parts; then He gave nine parts to women and one to men. " If the *hadith* had ended here, Mernissi would be right in her claim, but the *hadith* goes on: "And if the Almighty God had not given the women equal parts of shyness, then each man would have nine women related to him." (*Wasa'il*, vol. 14, p.40) In other words, Allah has given the women greater part of sexual desire but He has also neutralized it by giving equal parts of shyness to them. Seen as a whole, this and other similar *ahadith* do not support the claim that in Islam women are more sexually active then men. As for the question that why did Allah give more sexual desire to women and then neutralize it with shyness, I shall *inshaAllah* deal with it in the chapter on sexual technique. So how has Mernissi arrived at her conclusion? While contrasting the views of Freud and Ghazali on passive and active sexuality of women, Fatima Mernissi has studied the view of both writers on the process of human reproduction. First she quotes Freud as follows: "The male sex cell is actively mobile and searches out the female and the latter, the ovum, is immobile and waits passively..." (*Beyond the Veil,* p. 36, quoting Freud's *New Introductory Lectures,* p. 144) This proves to Mernissi that in Freud's view, woman is sexually passive. Then she contrasts this with Ghazali's view by quoting him as follows, "The child is not created from man's sperm alone, but from the union of a sperm from the male with a ovum from the female...and in any case the ovum of the female is a determinant factor in the process of coagulation." (*Beyond the Veil,* p. 37) This proves to Mernissi that in Ghazali's view, woman is sexually active.

I doubt whether Ghazali would agree with the conclusion which Mernissi draws from his last sentence. Moreover, even if Ghazali meant such a thing, then it cannot be substantiated from the original sources of Islam, the Qur'an and the *sunnah*. We have a clear *hadith* which refutes such a connotation to the process of reproduction. Once the Prophet was asked, "O Muhammad! Why is that in some cases the child resembles his paternal uncles and has no resemblance whatsoever to his maternal uncles, and in some cases he resembles his maternal uncles and has no resemblance whatsoever to his paternal uncles?" The Prophet said, "Whosoever's water-drop [i.e., sperm or ovum] overwhelms that of his or her partner, the child will resemble that person."(At-Tabrasi, *al-Ihtijaj,* vol. 1, p. 48 For a similar *hadith* in Sunni sources, see Ibn Qayyim, *Tibyan,* p. 334-5. Also see an interesting study on birth control among the Muslims, *Sex and Society in Islam* by B.F. Musallam.) In other words, if the wife's ovum overwhelms the sperm of her husband, then the child will resemble the mother or the maternal uncles; and if the husband's sperm overwhelms the ovum of his wife, then the child will resemble the father or the paternal uncles. This hadith makes it quite clear

that male and female play equal role in reproduction; sometimes, the male sperm overwhelms the female ovum and at other times the female ovum overwhelms the male sperm.

Then she quotes Ghazali's statement about the pattern of ejaculation of sexes as follows, "... The woman's ejaculation is a much slower process and during that process her sexual desire grows stronger and to withdraw from her before she reaches her pleasure is harmful to her." (*Beyond the Veil*, p. 38) By this statement, Mernissi wants to prove that in Islam woman is considered sexually more active than man. When I read this statement for the first time, I said to myself that this can not be true at all times: sometimes the male ejaculates first and at other times the female ejaculates first. And I was surprised that Ghazali would say such a thing. So I checked the Arabic statement of Ghazali and noticed that while translating the above quotation, Mernissi has conveniently left out the word "*rubbama*" which means "sometimes". (Al-Ghazali, *Ihya*, vol. 2, p. 148) So the correct statement of Ghazali is that "The woman's ejaculation sometimes is a much slower process..." With this correction, Mernissi's argument loses its legs.

(B) WOMEN ARE A DANGER TO THE SOCIAL ORDER.

The outcome of the above premise of Mernissi is as follows: Since Islam considers women as sexually more active, therefore, it considers them to be a danger to the social order.

After quoting Ghazali that, "The virtue of the woman is a man's duty. And the man should increase or decrease sexual intercourse with the woman according to her needs so as to secure her virtue," Mernissi comments, "The Ghazalian theory directly links the security of the social order to that of the woman's virtue, and thus to the satisfaction of her sexual needs. Social order is secured when the women limits herself to her husband and does not create *fitna*, or chaos, by enticing other men to illicit intercourse." (*Beyond the Veil*, p. 39, *Ihya*, vol. 2, p. 148)

Firstly, by looking at Ghazali's statement, I see nothing which would seem to indicate that in his view women are a danger to the social order. It simply describes one of the basic rights of conjugal relationship that the husband should not be a self-centered and selfish person, rather he should also think about the feelings of his wife. There is no indication at all that unsatisfied Muslim women in general would necessarily go out and commit adultery.

Secondly, if unsatisfied women become a danger to the social order just because there is a possibility that they might commit adultery, then this possibility is in no way confined to women even unsatisfied men could commit adultery! If Islam had considered women as a danger to the social order on this account, then it must also do so with men! And in stretching this argument to its logical conclusion, one would have to say that Islam considers men and women a danger to the social order. You see the absurdity of this line of thought. If all men and women are a danger to the social order, then whose 'social order' are we talking about?!

(C) THERE SHOULD BE NO EMOTIONAL INVESTMENT IN WOMEN.

The second part of Mernissi's contention is that in Islam men are not supposed to be emotionally attached to their wives; love between husband and wife is not encouraged or tolerated. Apart from what we quoted from Mernissi on this issue at the beginning of this discussion, she has talked on this issue, in a passing manner, at other places also. For instance, after quoting an interview with a Moroccan woman about her first husband by an arranged marriage (which has nothing to do with Islam), Mernissi writes, "Does love between man and wife threaten something vital in the Muslim order?...Heterosexual involvement, real love between husband and wife, is the danger that must be overcome." (*Beyond the Veil,* p.113) In another place, she says, "And it appears to me that the breakdown of sexual segregation permits the emergence of what the Muslim order condemns as a deadly enemy of civilization: love between men and women in general, and between husband and wife in particular. " (*Beyond the Veil,* p. 107)

Mernissi could not have been more further from the truth than in these contentions! Instead of going to the original sources of Islam, she has based her conclusion on the way a certain ethnic group of Muslims behave in their personal life. Now let us see if what she says is according to the original sources of Islam or not.

The Qur'an says, *"And among His signs is that He has created for you spouses from among yourselves so that you may live in tranquility with them; and He has created love* (muhabbah) *and mercy between you. Verily in that are signs for those who reflect.*"(30: 21) How can Mernissi say that Islam considers love between husband and wife a deadly enemy of civilization while the God of Islam counts it as a sign of His creation and glory? Imam Ja'far as-Sadiq says, "Loving *(hubb)* women is among the traditions of the prophets." (*Wasa'ilu 'sh-Shi'ah,* vol. 14, p.9) The same Imam quotes the Prophet as follows, "The statement of a husband to his wife that 'I love you' *(inniuhibbuki)* will not leave her heart ever." (*Wasa'ilu 'sh-Shi'ah,* p. 10)

There are three interesting *ahadith* in which Imam Ja'far as-Sadiq has described the love for women as a sign and cause of increase in faith. He says, "I do not think that a person's faith can increase positively unless his love for women has increased. "(*Wasa'ilu 'sh-Shi'ah,* p. 9) In another *hadith*, he says, "Whenever a person's love for women increases, his faith increases in quality." *Wasa'ilu 'sh-Shi'ah,* p.11) In a third hadith he relates the love for women to the love for Ahlu'l-bayt which is an important teaching of the Qur'an. He says "Whosoever's love for us increases, his love for women must also increase." (*Wasa'ilu 'sh-Shi'ah,* p. 11) I do not think that there is any further need to prove that Mernissi's accusation against Islam is baseless.

(D) LOVE SHOULD BE EXCLUSIVELY DEVOTED TO ALLAH.

If asked that why does Islam consider love for women as a deadly enemy of civilization and a danger to the social order, Mernissi would answer that emotional investment or the focus of attention "should be devoted to Allah alone in the form of knowledge-seeking, meditation,

and prayer." This is what she describes as Ghazali's view. (*Beyond the Veil,* p.45) In other words, Mernissi is saying that Islam, like Christianity, considers love for God and love for woman as two antipathetic phenomena. However, to be fair to Mernissi, I must say that this is a misconception from which even a scholar like Ghazali is not immune.

Although I have already quoted in detail the Islamic view which believes that love for women is not inharmonious with spiritual wayfaring, I intend to discuss this issue in the light of what Ghazali, with his Sufi tendencies, has to say.

2. AL-GHAZALI'S VIEWS

In his discussions on marriage in *Ihyau 'Ulumi 'd-Din,* Abu Hamid al-Ghazali has a section on "Encouragement for Marriage" *(at-targhibfi 'n-nikah).* In this section he has quoted some sayings of the Prophet about virtue of marriage. Then he has a section on "Discouragement from Marriage" *(at-targhib 'ani 'n-nikah).* In this section, apart from the sayings of some mystics (Sufis), Ghazali has quoted three *hadith*: two from the Prophet and one from Imam 'Ali. Interestingly, the third *hadith* is not even relevant to the issue; it is more relevant to family planning it talks about having fewer wives and children! Moreover, all three *ahadith* are classified by the scholars of *hadith* as weak *(da'if).* (See the editor's footnote in *Ihya'*, vol. 2, p. 101 and also in al-Kashani, *Tahzibu 'l-Ihya,* vol. 3, p. 57)

Then Ghazali goes on to discuss about the "benefits and harms of marriage. " Before scrutinizing the 'harms of marriage,' I wish to comment on two *'ahadith'* of the Prophet which Ghazali has quoted from his Sunni sources and which Mernissi has also used in her book.

The first *hadith* is as follows:

> The Prophet said, "When the woman comes towards you, it is Satan who is approaching you. When one of you sees a woman and he feels attracted to her, he should hurry to his wife. With her, it would be the same as with the other one." (*Ihya'*, vol. 2, p. 110, *Beyond the Veil,* p. 42)

After quoting this *hadith*, Mernissi adds the comments of Imam Muslim that "She resembles Satan in his irresistible power over the individual."

While discussing the issue of forgery or interpolation in *hadith*, our *'ulama'* say that one source of forgery was the mystics and the so-called pious mullahs who imported the idea of celibacy and monasticism from without Islam into the *hadith* literature. And since the evilness of woman is a main component of Christian monasticism, similar ideas also crept into the *hadith* literatureeither in form of total forgery or in form of interpolation. When I read the above *'hadith'*, I suspected it to be an interpolation, especially its opening sentence. My suspicion was confirmed when I started to look for a similar *hadith* in the Shi'ah sources. The Shi'ah sources narrate a similar hadith as follows:

The Prophet said, "When one of you sees a beautiful woman, he should go to his wife. Because what is with her [i.e., wife] is same as what is with the other one." (*Wasa'il,* vol. 14, p. 72-73) The same *hadith* is also recorded with a slight difference: The Prophet said, "O Men ! Verily the act of seeing [a beautiful woman] is from Satan, therefore whoever finds this inclination in him should go to his wife." (*Wasa'il,* vol. 14, p. 73)

The *hadith* narrated from Sunni sources equates the woman to Satan, whereas in the Shi'ah sources there is no such implication at all. On the contrary, in the second version of the *hadith* found in the Shi'ah sources, it is the man's sight which is related to the temptation by Satan! If we have to choose between the sources of the Prophet's sunnah, then we have no choice but to accept the version given by the Imams of Ahlu'l-bayt, the family of the Prophet. After all, no one could have known the Prophet better than the Ahlu'l-bayt. In our view, Imam Ghazali, Imam Muslim and Mernissi are all wrong in their attempt to equate woman with the Satan. The hadith they have quoted has been interpolated, most probably, by the mystics to encourage monasticism which they have imported from Christianity.

The second *hadith* is as follows: The Prophet said, "Do not go to the women whose husbands are absent. Because Satan will get in your bodies as blood rushes through your flesh. (*Ihya',* vol. 2, p. 110; *Beyond the Veil,* p. 42)

First of all, I was not able to find a similar *hadith* in the Shi'ah sources. This, plus its content, casts doubt on the authenticity of the *hadith*. Secondly, the source of this so-called *hadith* is *Sahih at-Tirmidhi.* And I am surprised how Ghazali and Mernissi could use this *hadith* while their source, Imam at-Tirmidhi, himself comments that "This is a strange *hadith*!" (haza hadithun gharib.) Thirdly, even if the *hadith* is accepted, it does not prove what Mernissi wants from it: "The married woman whose husband is absent is a particular threat to men." Because the *hadith* equates the men, and not the women, with Satan. Actually, the woman in this *hadith* emerge as the victim of men who have been overwhelmed by the Satan!

* * *

Now let us return to the work of Ghazali in which he is describing the harms of marriage. Ghazali names three things as the harms of marriage and we shall discuss each of them separately:

The First Harm:

> "The first and greatest harm [of marriage] is 'the inability to gain lawful livelihood.' This is something which is not easy for everyone especially during these times bearing in mind that livelihood is necessary. Therefore, the marriage will be a cause for obtaining the food by unlawful means, and in this is man's perdition and also that of his family. Whereas a single person is free from these problems. . . " (*Ihya',* vol. 2, p.

> 117)

Then he goes on to quote the mystics on this issue whose statements are of no value to us unless they are based on the Qur'an and the *sunnah*. They praise celibacy under the influence of monasticism which has been condemned by the Prophet and the Qur'an.

The logical conclusion of what Ghazali and other mystics say is that 'if you are rich, it is okay to marry; but if you are poor, you should not marry otherwise you will end up seeking provision from unlawful means!' This statement is totally against the Qur'anic view which says, *"Marry the spouseless among you. . . if they are poor, God will enrich them of His bounty."*(24:32) *"Do not kill your children because of (fear of poverty We will provide for you and them."*(6: 152) The Prophet said, "Whoever refrains from marriage because of fear of poverty, he has indeed thought badly of God." (*Wasa'il*, vol. 14, p. 24) I do not know how a person can gain spiritual upliftment by thinking negatively about God's promise!

The Second Harm:

> "The inability [of men] to fulfill the wives' rights, to forebear their [ill] manner and to bear patiently their annoyance." (*Ihya'* vol. 2, p. 118)

What is Imam Ghazali saying? Does he mean that women in general are over-demanding, ill-mannered and a nuisance? Can he really base this view on the Qur'an and *sunnah* of Prophet Muhammad (peace be upon him)? I do not think so; and that is why we see that Ghazali has produced only the sayings of some mystics in support of his views. And it is obvious that this cannot be substantiated by the original Islamic sources.

The Third Harm:

> "The wife and children will distract him from Allah and attract him towards seeking [the benefits of] this world and planning a good life for his children by accumulating more wealth...And whatever distracts a person from Allah whether wife, wealth or childrenis disastrous for him." (*Ihya'*, vol. 2, p. 119)

If what Ghazali says is true, then not only marriage, but children, friends, relatives and every material thing in this world must be labeled as 'harmful' to a Muslim because all these have the potential of distracting a person from God and the hereafter. Here Ghazali sounds more like St. Paul! And if this is true, then a Muslim should have nothing to do with this world, he should just confine himself to a cave in an isolated jungle or desert and pray to God! The absurdity of this idea from the Islamic point of view is obvious.

What Ghazali and other mystics say is not very much different from the monastic ideas of the Christian Church. And, incidentally, they suffered the same fate as the Christian monks. You have already read the comments of 'Allamah Rizvi about the monks that "when the nature

took its revenge, the monks and abbots cultivated the idea that they were representatives of Christ, and the nuns were given the titles of 'brides of Christ.' So with easy conscience they turned the monasteries into centres of sexual liberties." (see previous) Similarly, when nature took its revenge against the Sufis, in the words of 'Allamah Mutahhari, they started to "derive [sexual] pleasure in company of handsome persons and this work of theirs is considered as a journey towards Allah! (*Aklaq-e Jinsi*, p. 67)

The Sufis have a concept of *al-fanafi 'l-lah* which means 'obliteration of the self into God'. In simple words, it means the spiritual experience of becoming one with God. I am surprised how Ghazali can consider marriage as a distraction from God when *fana* and obliteration of two beings can be experienced in this world only in the sexual context when husband and wife reach the climax and become one for a few moments!

3. LOVE FOR GOD *VIS-À-VIS* LOVE FOR THIS WORLD

Imam Ghazali and other mystics have made a serious mistake in understanding the concept of 'preparing for the hereafter'. And this is what I would like to briefly clarify here. The concept of 'preparing for the hereafter' depends on one's outlook about the relationship between this world and the hereafter. There are three possibilities: 1. Submerge in the blessings of this world and forget the hereafter; 2. Utilize this world for the hereafter; 3. Forsake this world for the hereafter. The mystics and Sufis have adopted the third alternative, whereas the materialists have adopted the first alternative. Between these two extremes, lies the true Islamic view. There are many verses of the Qur'an which highly praise the blessings of this world, and many others which strongly exhort the Muslims to seek the hereafter. Seen in isolation, these verses can be used by the two groups to prove their extreme views. But seen in the light of other verses which talk about the inter-relationship of this world and the hereafter, one is guided to the Qur'anic view. And it is obvious that you cannot isolate the verses of Qur'an from one another, especially if they are talking about the same issue. As I said earlier, this is not the place to fully discuss this issue, but I will give a few examples from the Qur'an and the *sunnah* to clarify the Islamic view about this world and the hereafter.

The Qur'an says: *"Seek, among that which God has given to you, the hereafter, but do not forget your portion of this world either."(*28:77) Allah says, *"And when the prayer has ended, spread out in the world and seek the blessings of Allah and remember Him often, haply you will succeed."*(62:10)

Imam Hasan says, "Be for your world as if you are going to live forever, and be for your hereafter as if you are going to die tomorrow." (*Wasa'il*, vol. 12, p. 49) The Imam is teaching you that Islam does not want you to forsake this world, it wants you to totally benefit from it and love it but not to the extent that you may forget the hereafter the hereafter, where your fate depends on how obedient you were to God in your worldly life. Imam Musa al-Kazim says, "The person who forsakes his world for the sake of his religion or he who forsakes his religion for the sake of his world is not from us." (*Wasa'il*, vol. 12, p. 49) In Islam, piety does not mean forsaking this world and living in isolation in a desert or a monastery! Piety means

to live a normal life in the society but without forgetting the ultimate destination, the purpose of our creation an eternal life in the hereafter.

* * *

Even the relationship between the love for God and the love for one's spouse, children, and the world at large is of the same type. There are two levels of love in Islam: the love for God and the love for everything else. Islam does not forbid a person to love the spouse, children, parents, relatives, friends, and the worldly blessings which Allah has given to him or her. However, what Islam expects is that this love should be in harmony with the love for God, it should be based on the love for God . The practical implication of this is that if a conflict occurs between the demand of the love for God and the love for anything else, then the love for God should take precedence. In Islam, God is the axis of existence, He and nothing else is the Absolute Truth.

Allow me to explain this phenomenon in a metaphorical manner: the moon revolves around the earth, but at the same time, it also revolves around the sun. Moreover, the magnetic relationship between the moon and the earth is a minor part of the overall magnetic force which makes the planets revolve around the sun in our solar system. Similarly, in Islam the love between two human beings is like the relationship of the moon and the earth; and the love which a Muslim has for God is like the relationship of the sun and the planets. Obviously, the first type of love exists within the realm of the second. In other words, there are two cycles of love: love for God and love for one's husband, wife or children. The first is a wider circle within which exists the second circle of love.

Remember, there is a fine difference between what we are saying and what Mernissi and, to some extent, Ghazali have said. Mernissi says that in Islam love between husband and wife is forbidden because love should be devoted to God alone. Whereas we are saying that Islam does not forbid love between husband and wife or love for anything else as long as it is in harmony with the love for God. That is, it should not overwhelm you to the extent of forsaking the love for God. This is clearly mentioned in the Qur'an:

> Say (O Muhammad), *"If your fathers, your sons, your brothers, your wives, your clan, (your) possessions which you have acquired, (your)business which you fear may slacken and (your)dwellings which you love (if these) are dearer to you than Allah, His Messenger and struggling in His way, then wait till Allah brings about His decision (on the day of judgement)."*(9:24)

I would like to emphasize on the word "ahabbu dearer." If Allah had said that "if your...are dear to you" than Mernissi or others of her ideology might have been right in saying that Islam expects exclusive love for Allah and that all other loves are forbidden. But here Allah is talking in a comparative manner and says that if you love other things or persons more than Allah, then you are wrong, because such love could take you on the path of disobedience to

the commands of Allah and cause your perdition in the hereafter.

It is clear from what we said above that the Islamic concept of love is not confined to love for God vis-a-vis love for women, it is a universal concept in which we talk about love for all persons and things. So it is absolutely misleading to give a sexist context to this issue and say that the Islamic sexual morality is an anti-women morality.

In conclusion, we can say that the views of Mernissi and Ghazali that in Islam women are sexually more active than men and that Islam does not tolerate love between husband and wife cannot be substantiated from the original Islamic sources, the Qur'an and the authentic *sunnah*.

C. CRITERION OF MORAL AND IMMORAL

We have said earlier that Islam does not agree with the suppression of sexual urges, rather it promotes their fulfillment. But at the same time we have been emphasizing that it must be done in a responsible and lawful way. In other words, we have hinted that according to Islam sexual urges can be fulfilled in two ways: lawful and unlawful or moral and immoral.

What is the criterion of moral and immoral in the Islamic morality? Islam, like any other religion or ideology, has certain fundamental beliefs and all its teachings must be in harmony with its fundamentals. The foundation of Islam is the faith in One God, not just as the Creator but also as the Law-Giver. The Qur'an is not just a book of spiritual guidance, it is also a source of laws regulating our daily life. "Islam," after all, means "submission to the will of God" The Qur'an says clearly that *"It is not for any believer man or woman, when God and His Messenger have decreed a matter, to have the choice in the affair. Whosoever disobeys God and His Messenger has gone astray into manifest error."*(33 :36)

So in Islam, the right and the wrong, the moral and the immoral, the lawful and the unlawful is decided by Allah and His Messenger. And, in our view, the Imams of Ahlu'l-bayt are the best commentators of the Qur'an, the protectors of the authentic sunnah and living examples of the teachings of Islam. In short, the criteria of lawful and unlawful in Islam are the Qur'an, the authentic sunnah of the Prophet and his Ahlu'l-bayt. The Shi'ah faith also emphasizes that whatever Allah has decreed as lawful and unlawful is based on a reasonmaterial or spiritual or both. However, God is Omniscient whereas we are still at the shallow end of the deep ocean of knowledge, therefore it is not always possible for us to understand the rationale behind each and every command of God. The basic concept of sexual moralitythat sex is not evil and should not be suppressedis a very obvious example of an Islamic teaching which is in complete harmony with human reason and nature.

As soon as we say that Islam believes in regulating our sexual behavior, we are confronted with the question about (1) regulating sex by morality and (2) personal freedom in sexual behavior. These are the two issues which we intend to discuss briefly before closing this chapter.

1. REGULATING SEX BY MORALITY

The first question is, "Can sexuality be regulated by morality?" We are told that "there cannot really be such a thing as a specifically sexual morality. Morality attaches not to the sexual act, but always to something else, with which it may be conjoined. We may reasonably forbid sexual violence, say, but that is on account of the violence; considered in and for itself, and detached from fortuitous circumstances, the sexual act is neither right nor wrong, but merely 'natural'."(Quoted in Scruton, *Sexual Desire*, p. 2) The conclusion of this idea is simple: since there can be no real sexual morality, therefore, there should be no restrain, whatsoever, in sexual gratification. Nothing should be considered immoral or unlawful!

This idea by itself is absurd. Sexuality is an act which mostly involves two persons, and whenever two persons are involvedeven on secular basislaws and regulations become necessary to regulate their behavior.

To provide a rational basis for this idea it is sometimes said that many nervous and mental disorders take place because of the feeling of sexual deprivation. The preventive measure for such nervous and mental disorders is unrestrained gratification of sexual instinct. What they want to say in simple words is that the more you restrict sex, the more people will be attracted towards it and suffer the feeling of deprivation.

The libertine culture of the West actually enforced the unrestrained sexual behavior in the West during last thirty years. And, by keeping in mind the above arguments, one would expect to see a decline in the number of nervous disorders, sexual frustration, rape, incest, child abuse, and sexual assault. But has this really happened? No, of course, not! A look at the statistics shows that all the so-called effects of sexual deprivation have increased manifold in spite of the unrestrained sexual mood of the 60s, 70s and 80s!

What actually happened was that the Western world, after revolting against the suppression of sex by the Christian system, mistook unrestrained sex for nurtured sex. Islam does not accept the idea of suppressing the sexual instincts, instead it encourages the nurturing of those feelings and fulfilling them in a responsible way. Whatever restrictions Islam imposes on sex are based on the idea of nurturing it. It is not different from the way we fulfill the desire for food: you must eat, but not overfeed yourself. Similarly you must fulfill your sexual desires, but not at the expense of the rights of others and of your own body.

After rebelling against the suppressive sexual morality of the Church, the libertarian culture went to the other extreme of absolutely unrestrained sex. They made a big mistake in thinking that restrictions, in any form, were unnatural and wrong. Even Bertrand Russell, who strongly supports the libertarian view, had to accept that some restrictions in sexual morality are necessary. He writes, "I am not suggesting that there should be no morality and no self-restraint in regard to sex, any more than in regard to food. In regard to food we have restraints of three kinds, those of law, those of manners, and those of health. We regard it wrong to steal

food, to take more than our share at a common meal, and to eat in ways that are likely to make us ill. Restraints of a similar kind are essential where sex is concerned, but in this case they are much more complex and involve much more self-control." (Russell, *Marriage and Morals,* p. 293-294)

Russell, however, had difficulty in finding a new basis for sexual morality. The dilemma which the Western world is facing at the present time is very eloquently reflected in what Russell has written. He says, "If we are to allow the new morality [of unrestrained sex] to take its course, it is bound to go further than it has done, and to raise difficulties hardly as yet appreciated. If, on the other hand, we attempt in the modern world to enforce restrictions which were possible in a former [Christian] age, we are led into an impossible stringency of regulation, against which human nature would soon rebel. This is so clear that, whatever the dangers or difficulties, we must be content to let the world go forward rather than back. For this purpose we shall need a genuinely new morality. I mean by this that obligations and duties will still have to be recognized, though they may be very different from the obligations and duties recognized in the past. .I do not think that the new system any more than the old should involve an unbridled yielding to impulse, but I think the occasions for restraining impulse and the motives for doing so will have to be different from what they have been in the past." (Russell, *Marriage and Morals,* p. 91-92)

If Russell had an opportunity to study Islam closely, I am sure he would have found in it "a genuinely new morality" which regulated sex without leading into "an impossible stringency of regulation."

2. ISLAM & PERSONAL FREEDOM

The second question with which we are confronted by secularists and liberals is that of personal freedom: "Am I not free to do whatever I like as long as it does not infringe upon the rights of others?"

I think it will be very helpful to point out the main difference between Islam and the secular, liberal idea of personal freedom. In the secular system, the rights are divided into two: rights of an individual and rights of the society. A person is free to do whatever he or she likes as long as it does not infringe upon the rights of other people. To become an acceptable member of society, one has to accept this limitation on his or her freedom. An individual's freedom is only restricted by the freedom of others. Islam, on the other hand, divides the rights into three: rights of an individual, rights of the society, and rights of God. A person is free to do whatever he or she likes as long as it does not violate the rights of other people and God. To become a Muslim, one has to accept this limitation on his or her personal freedom.

One more important difference is in the concept of individual's right. In secular usage, individual's rights are seen in contrast to those of the other members of society. Islam goes one step further and says that even the body of an individual has some rights against the person himself. In other words, Islam holds a person responsible even for the use of his or her

body. You are not allowed to abuse your own body or harm it. Allah says, *"The hearing, the sight, the heart all of these shall be questioned of."* (17:38) Describing the day of judgement, He says, *"On the day when their tongues, their hands, and their feet shall bear witness against them as to what they were doing."* (24:24) *"On that day We will put a seal upon their mouths, and their hands shall speak to Us and their feet shall bear witness of what they were earning."* (36:65)

Imam Zaynu'l-'Abidn, in his *Risalatu 'l-Huquq*, describes the rights which a person's tongue, ears, eyes, feet, hands, stomach and sexual parts have on him. If a person misuses or abuses his body, then he is guilty of infringing the rights of his own body and also the rights of God who has given the body as a trust to us. The Qur'an says, *"The believers are...those who protect their sexual organs except from their spouse's. . . Therefore, whosoever seeks more beyond that in sexual gratification], then they are the transgressors."*(23: 5-6)

In Islam, an individual's rights are not limited only by rights of the society but also by those of his own body and God. The justification for this is very simple: Islam does not allow a person to harm or destroy himself; and sin or immorality is a means of perdition. This limitation is based on the love and concern which the Merciful God has for us. *"Allah does not desire to make any impediment for you, but He desires to purify you and to complete His blessings upon you."* (5:6)

The Islamic concept of personal freedom may seem restrictive when compared to that of the secular system, but its rationale and justification is accepted, in an indirect way, even by the secular society. The logical consequences of the secular idea of personal freedom is that a person is allowed to do whatever he likes with himself; the only limitation is that he should not infringe upon the rights of others. But the West has not been able to totally swallow this idea as can be seen in the laws which place restrictions on certain acts, for example, suicide or using narcotic drugs and also the mandatory use of car seat-belts. By using narcotic drugs, the addict is not infringing upon the rights of othersunless. of course, the meaning of infringing upon others' rights is stretched to include spiritual values which are not part of the secular realmbut still the Western society considers it unlawful and takes steps to prevent the addicts from using drugs. This is justified by saying that it is the society's duty to prevent its citizens from harming themselves. In these examples, we see that the secular system is retreating from the logical consequences of its version of individual freedom. The only difference remaining between the secular and the Islamic views is that the former gives the right of restricting to the society while the latter view gives that right to God.

In conclusion, we may say that the Islamic view forbids not only the acts which infringe upon the rights of others but also those which infringe upon the rights of the person's own body. This view is based on the love and concern which Allah has for human beings .

Chapter Three

The Islamic Sexual Morality (2)
Its Structure

This chapter deals with the practical side of sexual morality. We will first talk about marriage at the age of puberty, followed by a look into the possible ways unlawful as well as lawful of handling sexual urge if one decides not to marry soon after puberty, and finally the marriage procedure and sexual techniques will be discussed comprehensively.

It is necessary to mention that the last part of this chapter is very explicit because religious do's and don'ts have to be spelled out in very clear terms. As the saying goes, "There is no room for shame (haya') in [learning or asking about] religion."

A. THE BEGINNING OF SEXUAL LIFE

1 . BULUGH & RUSHD

Sexual desire is aroused in human beings at the age of puberty. In Islamic legal definition puberty (*bulugh*) is determined by one of the following:

1. *age:* fifteen lunar years for boys and nine lunar years for girls;
2. *internal change (in boys only):* The first nocturnal emission. Semen accumulates in the testicles from puberty onwards and more semen may be formed than the system can assimilate; when this happens, semen is expelled during the sleep. This is known as nocturnal emission wet dream or *ihtlam* in Arabic.
3. *physical change:* Growth of coarse hair on lower part of abdomen.

Since the sexual urge begins at puberty and as Islam says that sexual urge should be fulfilled only through marriage, it has allowed marriage as soon as the boy and the girl reach the age of puberty. In the case of girls, it not only allows them to be married as soon as they become mature, but also recommends such marriage. It is based on such teachings that Islam discourages girls from postponing their marriage because of education; instead, it says that girls should get married and then continue their education if they wish to do so.

Physical maturity by itself, however, is not enough for a person to handle the marriage responsibilities; *rushd* (maturity of mind) is equally important. On the other hand, our present way of life has become so much complicated that a considerable gap has appeared between puberty and maturity both in financial and social affairs. A recent article on the American youths says, "[Y]oung Americans entering the 21st century are far less mature than

their ancestors were at the beginning of the 20th. The difference is evident in all areas of youthful development: sex, love, marriage, education and work. Physically, today's youths are maturing earlier than previous generations, but emotionally they are taking much longer to develop adult attachments." (*Newsweek*, Special Edition Spring 1990, p. 55) Consequently, it is not easy for boys and girls of our atomic era to marry as soon as they become physically mature.

2. WHAT SHOULD THE YOUTHS DO?

What can the Muslims do about their next generation? In spite of the problem mentioned above, I believe there are ways by which Muslim youths in their late teens can get married without worrying about the financial aspect. Here I can suggest four possibilities:-

First: WITH FAMILY'S SUPPORT

If the parents are well to do and can support their young married children till they are financially independent, then I would strongly suggest that they encourage their children to marry and support them till they can stand on their own feet. While talking about the contract of freedom made between a slave and his master, the Qur'an says, *". . . and give them of the wealth of Allah which He has given you..."* (24:33)

If Islam puts so much emphasis on financially supporting one's freed slave so that he may stand on his own feet, it is needless to say how virtuous it would be to help one's own children to stand on their feet!

Second: WITH COMMUNITY'S SUPPORT

On a broader level, the Muslim organizations should create funds (e.g., long term interest-free loans) to support the young Muslims who want to get married but lack financial resources. Once a person guilty of indecent sexual behavior was brought to Imam 'All. After punishing him, the Imam arranged for his marriage at the expenses of the government. The Imam set an example of how the society can help the youths in starting a family life. By looking at the situation in the Western world, the Muslim organizations should at least morally feel obliged to provide such support for their youths. This is not a matter of charity, it is a matter of surviving as a Muslim community in a morally hostile environment.

Third: MARRIED MINUS FINANCIAL BURDEN

The boy and the girl can do their *'aqd* (Islamic marriage contract) but postpone the marriage ceremony till after they have finished their education. In other words, they would be married but still staying with their parents. They can meet each other without any *shar'i* objection; and if they decide to have sexual relations, then they should use permissible contraceptive means to delay the child-bearing process. In this way, they would be able to fulfill their sexual desire and be free from financial responsibilities.

Fourth: MARRIED PLUS SIMPLE LIFE-STYLE

The boy and the girl can do their *'aqd* and even the marriage ceremony but delay the child-bearing process AND adopt a very simple life-style. Thus they will be able to fulfill their sexual desire and also be free from heavy financial burden.

However, I cannot overemphasize the importance of the role played by parents in supervision of all such arrangements. I would not at all support the idea that a boy and a girl decide such matters on their own without the parents' input or without registering such arrangements at the community center. This will protect the reputation of the girl in case things do not work out properly.

Moreover, what I have suggested above also means that parents and youngsters both will have to radically change their outlook towards the materialistic aspect of life. They will have to adopt a very simple life-style. If today's youths intend to have a 'standard' financial footing before getting into marriage, then it will not be possible in the late teens; they will have to wait till they are in their thirties! The article mentioned above says that the youths "are marrying later than their parents did partly for economic reasons and many college graduates are postponing marriage beyond age 30." (*Newsweek*, p. 55)

One important benefit of these suggestions is that a youngster of college age will be free from sexual anxieties and will be able to concentrate fully on his or her studies. If a Muslim youth raised in the Western society without any religious upbringing is not provided with financial and moral support by his parents, then he is at risk of melting into the permissive culture that tolerates teenage sex outside marriage. And if this happens, God forbid, the youth will no longer regard a sexual relationship as a matter of value or commitment.

"Most of us got one-night stands out of our system in college," writes Nancy Smith, 25, in a recent essay for *the Washington Post* on her generation's struggle with adulthood. "Sex outside a relationship is not so much a matter of right or wrong as: Is it really worth the hassle?" (*Newsweek*, p. 55) And this type of sexual behavior has serious social consequences: abortions, unwanted babies, increase in divorce ratio and single parent families. Add to this the emotional suffering the people in general and the children in particular go through in such crises.

B. HANDLING SEXUAL URGE BEFORE MARRIAGE?

If a person cannot marry soon after becoming sexually and mentally mature, then how should he or she handle the sexual urge? In this section we will survey some ways of fulfilling the sexual urge and see whether they are permitted by Islam or not.

1. IMMORAL WAYS

(A) Pre-Marital Sex

Pre-marital sex is absolutely forbidden in Islam, no matter whether it is with a girl-friend or a prostitute. Pre-marital sex is fornication *(zina).*

It is also an irresponsible sexual behavior There is no responsibility involved in such relationships. The most vulnerable person in such relationships is the woman. Statistics can overwhelmingly prove that man has often cheated innocent women in pre-marital sex. Today half of all American men and women in their thirties cohabited before marriage, many of them on the assumption that it is better to look deeply before they leap. But studies now demonstrate that couples who cohabit before marriage are more likely to divorce than those who do not. (*Newsweek,* p. 57)

Glen Elder, a sociologist at University of North Carolina, has this to say about cohabitation: "It's a relationship that attracts those, mainly men, who are looking for an easy way out and it is uncertain what, if anything, it contributes to marriage." A twenty-four year old lady wrote the following in a letter to Ann Landers: "...The line [in a previous letter] that struck home was from the teenager who said she knew lots of girls her age who had several partners 'just for the fun of it.' I found that odd because I was having sex at 16 and it was no fun at all. Sleeping with guys wasn't exciting or thrilling, it was degrading. It made me feel lonelier and emptier than ever. I also worried from month to month about being pregnant. That can be a real hell...if I could talk to the young girls who read your column, I would tell them that teenage sex doesn't solve problems, it creates more. It doesn't make a girl feel loved. It makes her feel cheap. I'd let them know that it doesn't make a girl 'more of a woman,' it can make her less of one." (*The Vancouver Sun,* Dec. 5, 1989)

Allah says: *Do not go near adultery, .surely it is an indecency, and an evil way [of fulfilling sexual urge].* (17:32) Fornication and adultery have severely been condemned in the saying of the Prophet and the Imams. In Islam, pre-marital sex is considered an immoral act against the rights of Allah and one's own sexual organs.

Pre-marital sex is a sin punishable by the Islamic court. If an unmarried man and an unmarried woman are found guilty of fornication in an Islamic court, their punishment will be as the following: *The woman and the man who fornicate scourge each of them a hundred whips; and in the matter of God s religion, let no tenderness for them seize you if you believe in God and the Last Day; and let a party of the believers witness their punishment.* (24:2) If the unmarried man or woman commit fornication more than once, then they will be punished three times by hundred wipes, and if they are proven guilty for the fourth time, then they will be put to death. (See the chapter on "hudud" in *Sharaya'* and *Sharh Lum'a* also a;-Khu'i, *Takmilah,* p. 37-8) (As for adultery, its punishment is even more severe because married persons have no excuse, whatsoever, to commit adultery. The *shari'ah* says that married persons guilty of adultery should be stoned to death.)

Therefore, pre-marital sex is out of the question as a means of fulfilling the sexual urge.

(B) Masturbation

In Islamic terminology, masturbation *(istimna)* means self-stimulation of the sexual organ till one achieves emission of semen or orgasm. Masturbation in form of self-stimulation is forbidden in Shi'ah fiqh. While describing the believers, the Qur'an says, *"The believers are... those who protect their sexual organs except from their spouses... Therefore, whosoever seeks more beyond that [in sexual gratification], then they are the transgressors."* (23:5-6) The last sentence makes it very clear that any sexual gratification outside marriage is considered a transgression of the law of God. And this verse also implies that sex is an act in which two people are involved. Once when Imam Ja'far as-Sadiq was asked about masturbation, he recited this very verse and mentioned masturbation as one of its examples. (*Wasa'il,* vol. 18, p. 575) In another, the Imam was asked about masturbation; he said, "It is an indecent act..." (*Wasa'il*, vol. 14, p. 267; vol. 18, pp. 574-5)

Masturbation is a sin for which a person can also be punished by the Islamic court. Of course, the nature of the punishment is upon the judge's discretion. Once a person was caught masturbating and was brought to Imam 'Ali. The Imam punished him by beating on his hands until it turned red; then he made arrangement for his marriage on government's expenses. (*Wasa'il,* vol. 14, p. 267; vol. 18, pp. 574-5)

These days some scientists are telling us that there is no harm in masturbation, rather it is a natural act. To prove that it is natural, they give examples of some wild animals, like monkeys. Actually they represent those who have gone to the other extreme of sexual morality. They have degraded human beings to the level of wild animals, and then justify their deeds by finding examples in the animal world. They are, in Qur'anic expression, *"like cattle, nay they are more astray; they are the heedless ones."* (7: 179) The irony is that when Muslims talk about following Islam which came just 1400 years ago, they are labeled by the secularists as 'reactionaries,' 'those who want to turn the clock backwards,' 'anti -progress,' and now these very people are going millions of years back (according to their own counting) and following the wild animals or the primitive societies to determine what is natural for us and what is not natural!

Many different types of sexual behavior could be found in primitive societies, but that does not automatically make it natural or right. On the contrary, in some cases, masturbation was considered an abnormal and abhorrent act! For example, Lewis Cutlow writes about the Amazon Indians that:

> ...Xinguanos are deeply disturbed by civilizados who are sexually frustrated; they cannot understand how a man can become aroused at the sight of a nude woman. In his 25 years of daily life with Indians, Orlando told me, he had never seen an Indian with an erection. It would be absurd to them. Nor has Orlando seen or heard any instances of sexual deviation among the Indians. They did not know what masturbation was until they saw a civilizado telegraph operator doing it. From then on the telegraph operator was a problem to Orlando and his colleagues at the Park. The

> Indians despised him because, in their eyes, he had done something reprehensible. There was nothing to do but remove him from the Park. (*The Twilight of the Primitive,* p. 16-7 as quoted in *Sex and Destiny,* p. 88)

Sometimes the scientists justify masturbation by saying that many people do it! But if a majority does something, it does not automatically prove that it is right. Otherwise, drugs should also be declared 'normal' because the majority of Americans, at one time or another, took drugs. The surveys made by sexologists like Kinsey, Masters and Johnson, and the Hite Report just reveal what the American people do in the privacy of their bedroom; it does not necessarily prove that what they do is natural and right!

Many modern psychologists say that masturbation is just like normal sexual intercourse, rather even better because you are master of yourself, you don't have to worry about your partner's feelings! This is an example of how low the materialist society has sunk into its self-centered and selfish attitude that even in sex it prefers to seek self-gratification with the exclusion of the spouse. "They seem to forget that in sexual intercourse all the senses contribute to the stimulation and orgasm: Man and woman see their partner, touch each other, say endearing words to each other and hear the stimulating sounds; and even the senses of smell and taste are utilized. And the penetration of male organ into the female leads to the final excitement and orgasm. But in masturbation the only source of stimulation is imagination, in which no other sense takes any part. The whole burden is loaded upon the mind; and, as a result, while normal sexual intercourse causes happiness and joy, masturbation creates emotional and psychological depression." (Rizvi, S.S.A., *Your Questions Answered,* vol. 3, p. 40-1)

This is not just an opinion of a Muslim scholar. Even the Hite Report on Male Sexuality, says: "Similarly, many men said that they enjoyed masturbating physically, but that emotionally it was depressing." (*The Hite Report on Male Sexuality,* p. 489) In one of the replies, a man writes: "It is physically enjoyable, but it can leave one emotionally empty or lonely for the real thing. You can do it when you feel like it, come when you want, bring up your own images, but there is no warmth or closeness, no one to share pleasure with, no companionship. . . "(*The Hite Report on Male Sexuality,* p. 489) After saying that the physical effects of masturbation are negligible, Leslie D. Weatherhead in *The Mastery of Sex* writes: "Psychologically the results are more serious. Masturbation in the adult is nearly always due to a maladjustment..." (*The Mastery of Sex,* p. 103)

THE CURE FOR MASTURBATION: It is easy to stay away from fornication because it involves another person. But the danger of getting into the habit of masturbation is always there, therefore it is necessary to know how to combat this perverted sexual behavior. The following is a guide-line for releasing a person from the habit of masturbation. This has been taken from Weatherhead's *The Mastery of Sex* and 'Allamah Rizvi's *Your Questions Answered.*

1. Strengthening will-power. This is possible only if one honestly and sincerely wants to get

rid of this habit. Pray to Allah to help you overcome this habit, concentrate on religious teachings, and build up the spirit of *taqwa*, piety.

2. More and more stay in the company of other persons: If in the daytime you feel like masturbating, get up from your bed or chair and get into the presence of other people and talk to them. If it happens at bedtime, sit up in bed, read a book or write a letter. Do something to switch your mind on to other things.

3. Adopt some hobby or sports which will provide you with an outlet for the energies of your body.

(C) Homosexuality

One way of fulfilling the sexual urge which is now becoming acceptable in the Western world is sexual relations between members of the same sex: homosexuality (which by definition includes lesbianism). By saying that it is becoming acceptable in liberal societies I do not mean to say that homosexuality is a 20th century phenomenon; no, not at all. But there is one big difference between the past and the present: in the past, homosexuality was considered a perverted sexual behavior whereas now it is being labeled as 'natural' and as a result of 'inborn tendency' !

All revealed religions, Judaism, Christianity and Islam form a united front against such sexual behavior. It has been clearly condemned in the Bible and the Qur'an. The Qur'an describes the people of Lut (Lot) as follows:

> *When We sent* Lut, he said to his people, "What! do you commit the indecency which none in all the nations had committed before you? *Look at you!* You approach the men lustfully instead of *approaching your* women! No, you are a people who have exceeded the limits." The only answer of his people was that they said, 'Expel them from your city, surely they are a people who seek to keep themselves clean!" So We delivered him and his followers, except his wife; she was one of those who tarried behind. We sent upon them a rain. So behold how was the end of the guilty people. (7:80-84)

The Qur'an also describes how Prophet Lut tried to reason with his people when they approached his three guests (who were actually angels in human form):

> When the people of Lut *saw the handsome young men, they* came to him, running towards him. *Lut had anticipated this because* they had been doing evil deeds from before.
>
> *When the people reached close to his house,* Lut said *pointing towards his daughters that,* "O my people! These are my daughters, they are purer for you. Fear Allah and

> do not disgrace me in regard to my guests. Isn't there among you a man of right mind?"
>
> They said, "You know better that we have no desire for your daughters; and you surely know what we desire." (11 :78-79)

Explaining the details of the punishment, Allah says,

> So when Our punishment came *upon the people of Lut,* We turned the city upside down and showered them with stones of baked clay, one after another.(11:82)

So we see that as far as the Qur'an is concerned, homosexuality is an "indecency," and that Allah had destroyed a whole nation because of this indecent sexual behavior.

In the Islamic legal system, homosexuality is a punishable crime against the laws of God. In the case of homosexuality between two males, the active partner is to be lashed a hundred times if he is unmarried and killed if he is married; whereas the passive partner is to be killed regardless of his marital status. In the case of two females (i.e., lesbianism), the sinners are to be lashed a hundred times if they are unmarried and stoned to death if they are married. (See the chapter on "hudud" in *Sharaya* and *Sharh Lum'a* also al-Khu'i, *Takmilah,* p. 42-44.

Why is Islam so severe in matters of fornication, homosexuality and lesbianism? If the Islamic system had not allowed the gratification of the sexual urge by lawful means (without even associating guilt with it), then it would be right to say that Islam is very severe. But since it has allowed the fulfillment of sexual instincts by lawful means, it is not prepared to tolerate any perverted behavior.

The homosexuals are considered as the high risk group for Acquired Immune Deficiency Syndrome (AIDS). This shows that nature has not accepted it as a normal sexual behavior among mankind. The homosexuals are told that in order to have safe sex, they must use condoms. If homosexuality without condoms is not safe sex, then how can it be natural? Isn't the statement that "it is natural but not safe" a contradiction in itself?

The moral bankruptcy of the West is clearly evident in the present trend where some Christian churches are willing to consider modifying the Biblical moral values to accommodate the whims of those who want to justify their immoral behavior! A high ranking Anglican cleric in Canada says that it's time his church approved some form of service or rite that would bless the union of committed same sex couples. (See the statement of The Very Rev. Duncan Abraham. Dean of St. James Cathedral in Toronto. *The Toronto Sun*, Nov. 24, 1993.) After a three-hour debate in 1987, the General Synod of the Church of England "decided that homosexuality is wrong, but has refused to condemn it as a sin." (*The Globe & Mail* (Toronto) Nov. 12, 1987) It seems that instead of providing moral and ethical leadership, the church is being led by the special interest groups. Such groups even want the

public schools to change the definition of family so as to make their life-style acceptable.

2. LAWFUL TEMPORARY WAYS

If a Muslim cannot marry soon after puberty, then he or she just has two options: temporary abstinence or temporary marriage.

(A) Temporary Abstinence

Islam has allowed marriage as soon as a person becomes physically mature, and it also strongly recommends that at least during the early years of marriage to adopt a simple life-style so that the lack or paucity of financial resources does not obstruct a happy life.

But if a person decides, for whatever reason, not to marry soon after he or she becomes physically mature, then the only way is to adopt temporary abstinence. After strongly recommending the marriage of single people, the Qur'an says, *"And those who cannot marry should practice restrain (or abstinence) till Allah enriches them out of His bounty."* (24:33)

However, abstinence from all the forbidden ways of fulfilling the sexual urge is not easy. Therefore, a few guide-lines would not be out of place. Once a man came to the Prophet and said, "I do not have the (financial) ability to marry; therefore, I have come to complain about my singleness." The Prophet advised him how to control his sexual urge by saying, "Leave the hair of
your body and fast continuously." (*Wasa'il,* vol. 14, p. 178) By saying that "leave the hair of your body," the Prophet is asking not to remove the hair which grows on pubic area, chest, etc, by shaving or using lotion or wax; rather one should just trim the hair.

This *hadith* is indicating that removing the excessive hair increases one's sexual urge. (Probably, that is why the *shari'ah* has recommended the men to shave the excessive hair every forty days, and the women to remove the excessive hair by lotion or cream every twenty days.) In retrospect, it means that not removing the hair will decrease the sexual desire and help the person in abstinence. Imam 'Ali says, "Whenever a person's hair increases, his sexual desires have also decreased." (*Wasa'il*, vol. 14, p. 178) I have not yet come across any scientific discussion on the relationship between removing of the hair and sexual urge, but I am told that the *hakims* believed that removing the hair from the pubic area increased the chances of direct pressure on that area and, consequently, the blood flow to the sexual organs.

The other method of decreasing the sexual urge is fasting. It is obvious that one of the greatest benefits of fasting is the strengthening of one's will power. And no doubt, abstinence in the sexual context mostly depends on the will-power of the person. So fasting will strengthen the will-power of the person and make it easier for him or her to restrain the sexual feelings.

(B) Temporary Marriage (Mut 'a)

If a person does not marry soon after maturing and finds it difficult to control his or her sexual desire, then the only way to fulfill the sexual desire is *mut'a*.

In Islamic laws, according to the Shi'ah fiqh, marriage is of two types: *da'im*, permanent and *munqati'*, temporary. The *munqati'* marriage is also known as *mut'a*. This is not the place to discuss the legality or the illegality of the temporary marriage (*mut'a*). It will suffice to say that even according to Sunni sources, *mut'a* was allowed in Islam till the early days of the caliphate of 'Umar ibn al-Khattab. It was in the latter period of his rule that 'Umar declared *mut'a* as *haram*. It goes without saying that a decision by 'Umar has no value in front of the Qur'an and the *sunnah*!

As for the relevance of the *mut'a* system in modern times, I will just quote what Sachiko Murata, a Japanese scholar, wrote in her thesis on this subject: "Let me only remark that the modern West has not come near to solving all the legal problems that have grown up because of relatively free sexual relationships in contemporary society. If any real solution to these problems is possible, perhaps a certain inspiration may be drawn from a legal system such as *mut'a* which, with its realistic appraisal of human nature, has been able to provide for the rights and responsibilities of all parties." (Murata, *Temporary Marriage in Islamic Laws* (Qum: Ansariyan, 1991) p. 4. For a detailed discussion on the social aspect of mut'a, see Mutahhari, *The Rights of Women in Islam* (Tehran: WOFIS, 1981) and on the legal aspect, see Kashifu 'l-Ghita', *The Origin of Shi'ite Islam and Its Principles* (Qum: Ansariyan). For an in depth study on the Qur'anic verse and ahadith of mut'a, see at-Tabataba'i al-Mizan, vol. 8 (English translation) pp. 130-161.)

The main difference between the two types of marriage is that in permanent marriage, Islam has clearly defined the duties and obligations between the spouses. For example, it is the duty of the husband to provide the basic necessities of life for his wife and the wife is expected to not refuse sexual relations without any religious or medical reason. But in temporary marriage, Islam has given the prospective spouses the right of working out their own duties and expectation plans. For example, the husband is not obliged to maintain the wife unless it has been so stipulated in the marriage contract. Likewise, the wife can put a condition in the marriage contract that there will be no sexual relations. (Al-Khui, *Minhaj,* vol. 2, p. 267) Such conditions are invalid in a permanent marriage but allowed in temporary marriage.

I cannot overemphasize the temporary nature of *mut'a*. The message of Islam is quite clear: marry on a permanent basis; if that is not possible, then adopt temporary abstinence; if that is not possible, only then use the *mut'a* marriage.

The temporary nature of *mut'a* can also be seen from the following saying of the Imams: Once 'Ali bin Yaqtin, a prominent Shi'ah who held a high post in ' Abbasid government, came to Imam 'Ali ar-Riza to ask about *mut'a*. The Imam said, "What have you to do with it because Allah has made you free from its need." (*Wasa'il,* vol. 14, p. 449) He has also said,

"It is permitted and absolutely allowed for the one whom Allah has not provided with the means of permanent marriage so that he may be chaste by performing *mut'a*. (*Wasa'il*, vol. 14, p. 449-450)

Chapter Three
(continued)

The Islamic Sexual Morality (2)
Its Structure

C. MARRIAGE

In this section, we shall discuss some general laws and rules concerning marriage, marriage ceremony, practical aspect of sex within marriage and some of the often asked questions.

1. WHOM CAN YOU MARRY?

Islam places certain restrictions as far as the choice of your spouse is concerned. These restrictions are based on blood relationships and religious affiliations of the person.

(A) Restrictions based on Relationship

There are certain blood relations which are considered *haram* for you as far as marriage is concerned. (As a general rule, anyone who is your *mahram* is forbidden to you for marriage. *Mahram* means a blood-relative in whose presence *hijab* is not required.) The list of such relatives is given in the Qur'an as follows:
For Man mother daughter paternal aunt maternal aunt niece foster-mother foster-sister mother-in-law step-daughter daughter-in-law all married women sister-in-law (as a 2nd wife) (See the Qur'an, ch. 4, verse 23-24)

For Woman father son paternal uncle maternal uncle nephew foster-mother's husband foster-brother father-in-law step-son son-in-law

It worth noting that cousins have not been included in this list which means that: firstly, cousins are not *mahram* to each other, so hijab has to be observed between them; secondly, cousins can marry each other.

(B) Restrictions based on Religion

Marriage between two people who do not follow the same religion creates problems in the day-to-day life of the couple because no aspect of our life is outside the jurisdiction of the Islamic *shari'ah*. Consequently restriction in marriage based on religious differences is quite natural

A Shi'ah Muslim Man

· can marry:

a Shi'ah Muslim woman.

a non-Shi'ah Muslim woman.

however, if there is danger of being misled, then it is haram.

a Jewish or Christian woman in mut'a only.

· cannot marry: a woman of any other faith.

A Shi'ah Muslim Woman

· can marry:

a Shi'ah Muslim man.

a non-Shi'ah Muslim man,

although it is better not to do so; and if there is danger of being misled, then it is haram.

· cannot marry: a non-Muslim man.

2. SOME OFTEN ASKED QUESTIONS

(A) Do parents have any right over the marriage of their children?

The father and paternal grandfather have full authority over the children who have not yet reached the age of puberty.

When a child reaches the age of puberty, then there are three different situations:

(a) a child who is *baligh* but not mentally mature: in this case, the father and the grandfather still have their authority over him or her. Such a child cannot take a decision on marriage without the approval of the father or the grandfather.
(b) a male child who is *baligh* and also mentally mature: in this case, he has full right to decide about his own marriage.

(c) a girl who is *baligh* and mentally mature: There are four different opinions on this issue. (Muhaqqiq al-Hilli, *Sharaya'*, p. 500: Shahid ath-Thani, *Sharh Lum'ah*, vol. 2. p. 71.) But the majority of the present *mujtahids* say that in her first marriage, a *baligha* and mentally mature girl cannot marry without the permission of her father or grandfather. And if such a girl had already married before. then she has full right to decide for herself in the case of her second marriage. (Al-Yazdi. *al-'Urwah*, p. 654; al-Khui, *Minhaj*, vol. 2. p 255: al-Khumayni. *Tahrir*, vol. 2. p. 254; for details, see ash-Shahid ath-Thani, *Masalik*, vol. 1, p 449-452.)

This law is in place to act as an extra protection for the honor of a teenage girl. However, if the father or grandfather refuses to give his consent to a proposal of a suitable man, then a religious judge can over-ride the decision of her father or grandfather. Similarly, if the father or grandfather is inaccessible, then there is no need for his permission.

(B) By considering the hijab in Islam, is a boy permitted to look at the girl before marrying her?

A man is allowed to see without *hijab* the woman whom he intends to marry. However, this permission is just for the man or the woman to see the prospective spouse once; (Muhaqqiq al-Hilli, *Sharaya'*, p. 493; Shahid ath-Thani, *S'harh Lum'ah*, vol. 2, p. 67; al-Yazdi, *al-'Urwah*, p. 625; al-Khu'i, *Minhaj*, vol. 2, p. 253; al-Khumayni, *Tahrir*, vol. 2, p. 254: 'Allamah al-Hilli, Tazkirah, vol. 2, p. 572; Shaykh at-Tusi, *an-Nihayah*, p. 484.) it is not a perpetual license to go out together! I strongly recommend that such a meeting should take place with the supervision of the parent or the guardian.
(C) Can a boy and a girl who are engaged meet each other or go out together ?

In Islam, there is no ceremony known as engagement. According to the *shari'ah*, engagement is a revocable agreement between two persons to marry each other, nothing more; it does not make the two persons *mahram* to each other. They still have to observe the rules of *hijab*. But if two persons who are engaged wish to meet each other, then the only way to legalize that Islamically is by performing *mut'a* marriage between the *fiance* and the *fiancee*. They can even put a condition in the *mut'a* that there will be no sexual relations. This way, they will be able to meet each other without any objection from the *shari'ah*. This method can be adopted by those also who wish to go through the engagement ceremony in which the *fiance* puts a ring on the *fiancee's* finger.

However, as mentioned earlier, a girl who has not married before will need her father's or grandfather's approval even in such a *mut'a* marriage.

3. THE *'AQD*

In the Islamic *shari'ah*, marriage is an '*aqd*, a contract.

As a contract, it depends on *ijab* (proposal from the bride) and *qubul* (acceptance from the groom). The contract can be verbally made by the parties themselves or by their

representatives . The language of this contract must be Arabic. Although just one sentence for proposal (like *ankahtuka nafsi* = I have given myself to you in marriage) and one word for acceptance (like *qabiltu* = I have accepted) is enough but it is the norm to solemnize the marriage by using all forms of legal terms for this purpose; for example*, ankhatu, zawwajtu* together with the mentioning of *mahr; sidaq*, etc. It is also recommended to begin with a sermon (*khutba*) praising Allah, *subhanahu wa ta ala*, asking for His blessings on Prophet Muhammad and his progeny, and also reciting a Qur'anic verse and a couple of *ahadith* on virtue of marriage.

One of the necessary conditions of an Islamic marriage contract is *mahr*. *Mahr* is usually translated as dowry, and it means the marriage gift which the groom agrees to give to the bride. It is actually the right of the bride and it is for her to specify or fix the *mahr*; and for the groom to either accept it or negotiate with his prospective bride.

The *mahr* can consist of a material item or a benefit (like training for something); it can be paid up front or can be in form of promise to pay upon demands decided prior to the solemnization of marriage.

4. THE TIME OF MARRIAGE

(A) When to marry?

Are there any special days in the Islamic calendar when marriage is encouraged or discouraged? Basically marriage is allowed at all times. However, there are some days on which marriage is not recommended; some of these are based on *ahadith* and some on cultural, historical reasons.

Generally, we can categorize these days into three: (a) There are some *ahadith* which say that it is *makruh* (not recommended) to have a marriage ceremony on the days when the moon is in the constellation of the Scorpio (this is known as *al-qamar fil aqrab* or *qamar dar aqrab*), during the last two or three days of the lunar months, and on Wednesdays. (b) There are some *ahadith* which say that certain days of each month are ill omen days (*nahas*); these days are the 3rd, 5th, 13th, 16th, 21st, 24th and 25th of lunar months.

However, the *ahadith* for both the above categories would not stand the scrutiny of the scholars of *hadith*. Our *mujtahids* do not normally apply their full expertise in matters not related to obligatory or prohibitive commands. They relax the criteria for acceptability of *ahadith* in matters related to *sunnat* and *makruh* acts. This is not done out of negligence or lack of interest, it is done on the basis of a widely accepted rule in *usulu'l-fiqh* (the Principles of Jurisprudence) known as *qa'idatu't-tasamuh*, that is, the rule of leniency (in ascertaining the acceptability of *hadith*). (For more information on *qa'idatu't-tasamuh*, the specialist readers may refer to as-Sadr, *Durus fi 'Ilmi 'l-Usul*, vol. 2 p 204 and vol. 3 (part 1) p 258 and an-Naraqi's '*Awa'idu 'l-Ayyam*, pp. 269-271.)

This has been mentioned very clearly by Ayatullah al-Khu'i in his manual of *fatwas*. He says, "Most of the *mustahab* acts mentioned in the chapters of this book are based on the *qa'idatu't-tasamuh* in sources of the *sunnat* acts. Therefore, whatever has not been proved as *sunnat* in our view should be done with intention of *raja'il matlubiyyah.* The same applies to the *makruh* acts; these should be abstained from with the intention of *raja'il matlubiyyah."* (*Minhaj,* vol. 1, p. 14. *Raja'i 'l-matlubiyyah* means doing something not because it is sunnat but with the intention that it might be expected of us to do so.)
As far as the two categories for marriage days are concerned, it will suffice to quote Ayatullah Gulpaygani, one of the leading *mujtahids* of our time who says: "One may follow these *mustahab* and *makruh* acts with the intention of *raja'il matlubiyyah,* because there is no clear evidence for some of these things." (See his annotations on *al-'Urwatu 'l-Wuthqa,* p. 623.)

(c) There are certain days of the Islamic calendar which have become associated with the early events of the Islamic history; for example, the 10th of Muharram is the day of mourning for the massacre at Karbala or the day of the Prophet's death in Safar, etc. Since such days are commemorated by the Muslims as days of mourning, it is socially and, to some extent, religiously not recommended to have a marriage ceremony on such days.

(B) The Wedding Night:

I must explain why I have written wedding 'night' and not 'day'. The *hadith* says, "Take the bride to her new home during the night." (*Wasa'il,* vol. 14, p. 62) Based on this saying, it is recommended that the wedding should take place at night. After all, Allah has made the night *"so that you may rest in it."* (10: 67)

After the bride has entered the room, the groom is recommended to take off the bride's shoes, wash her feet (in a washbowl) and then sprinkle the water around the room.

Then the groom should do wuzu and pray two rak'at sunnat prayer and then recite the following *du'a:*

> Allahummar zuqni ulfataha wa wuddaha wa rizaha bi; war zini biha, waj ma' baynana bi ahsani ijtima'in wa anfasi i'tilafin; fa innaka tuhibbul halal wa tukrihul haram.
>
> O Allah! bless me with her affection, love and her acceptance of me; and make me pleased with her, and bring us together in the best form of a union and in absolute harmony; surely You like lawful things and dislike unlawful things.

Then he should ask the bride to do wuzu and pray two rak'at sunnat prayer.

When they are ready to go to bed, the groom should put his hand on the bride's forehead and pray the following *du'a* while facing the *qiblah*. (So don't forget your *qiblah* compass!)

Allahumma bi amanatika akhaztuha wa bi kalimatika s-tahlaltuha. Fa in qazayta li minha waladan, faj-'alhu mubarakan taqiyyan min Shi'ati Al-i Muhammad (sal-lal-lahu alayhi wa alihi wa sallam) wa la taj-'al lish Shaytani fihi shirkan wa la nasiba.

O Allah! I have taken her as Your trust and have made her lawful for myself by Your words. Therefore, if you have decreed for me a child from her, then make him/her blessed and pious from among the followers of the Family of Muhammad [peace be upon him and them]; and do not let the Satan have any part in him/her.
Al-'Urwah. p. 624.

Is it necessary to have sexual intercourse on the very first night after the wedding or can it be delayed? As far as the *shari'ah* is concerned, it is neither obligatory nor forbidden to have sex on the first night. It is a private decision between the newly wed couple; it has nothing to do with others. However, I must say that the groom should take the feelings of his bride into consideration; after all, she is new to him and to the surroundings.

5. DAYS & TIMES FOR SEX

(A) Is sex forbidden at any time in marriage ?

Yes, by considering the discomfort for the women during the monthly periods, Islam has forbidden both the husband and the wife from engaging in sexual intercourse during menstruation.

The Qur'an says:

They ask you about menstruation. Say: "Menstruation is a discomfort (for women). Do not establish sexual relations with them during the menses and do not approach them (sexually) until the blood stops. Then when they have cleansed themselves, you go into them as Allah has commanded you." (2:222)

According to the *shari'ah*, the duration of the monthly period is between three to ten days. If the bleeding was for less than three days, it is not menstruation; if it is for more than ten days, then it is menstruation for ten days and then it is counted as *istihazah*, irregular bleeding during which sex is permitted. (For further details, see my *Ritual Ablutions for Women*.)

The prohibition of sex during the periods is limited strictly to sexual intercourse; other intimate contact (with the exception of the vagina and anus) is allowed. However, it is better not to play with her body between the navel and the knees.

If a person who is engaged in sexual intercourse with his wife discovers that her period has

begun, then he should immediately withdraw from her.

It is clear from the verse mentioned above *(until the blood stops)* that once the blood has stopped, intercourse becomes lawful even if the woman has not performed the major ritual ablution *(ghusl).* But on the basis of the subsequent sentence *(then when they have cleansed themselves...),* most mujtahids say that it is better to refrain from intercourse till she performs the *ghusl* or, at least, washes her private parts. (*Wasa'il,* vol. 1, p. 576)

Sexual intercourse is also not allowed during the post-natal bleeding (10 days), during daytime in the month of Ramadhan, and when a person is in *ihram* during the pilgrimage to Mecca. At all other times, sexual intercourse is allowed.

(B) Is it discouraged (makruh) to have sex at any time or on any day ?

There are certain *ahadith* which say that sexual intercourse during some days and at some times is *makruh*, but not *haram*.

These days and times are as follows:

i. during frightful natural occurrences, e.g., eclipse, hurricane, earthquake;

ii . from sunset till maghrib;

ii. from dawn till sunrise;

iii. the last three nights of lunar months;

iv. eve of the 15th of every lunar month;

v. eve of 10th Zil-hijjah;

vii. after becoming junub.

Some of these are self-explanatory: I don't think any one would be in the mood for sexual intercourse during a hurricane or earthquake. The second and third examples are of the prayer times; obviously, a Muslim is expected to spend that time in meditation and prayer. One must remember, firstly, that it is *makruh*, not *haram*, to have sexual intercourse at these times. Secondly, the *ahadith* for such issues have been accepted on basis of the *qa'idatu 't-tasamuh* mentioned earlier. Thirdly, the reasons given for this *karahat* are mostly about possible deformity of a child conceived at that time. By looking at these reasons, I am inclined to restrict this *karahat* only in cases of couples who plan to have children, and not extend it to those who practice birth control.

I would therefore advise the readers to be considerate to your spouse and not to put him or her in unnecessary tension; It your spouse is very sensitive about these *makruh* days then try to accommodate your likes and dislikes accordingly. Mutual understanding is the key.

(A) Are there days and times when sexual intercourse is recommended?

Yes we have certain *ahadith* which say that it is better to have sexual intercourse at these times:

i. Sunday night;

ii. Monday night;

iii. Wednesday night;

iv. Thursday noon;

v. Thursday night;

vi. Friday evening;

vii. whenever the wife wants to have sex.

Thursday and Friday are weekends in the Islamic calendar!

(A) Are there times when it is obligatory (wajib) to have sexual intercourse ?

Yes! It is wajib on man to have sex with his wife at least once in every four months; this is considered as one of the conjugal rights of the wife. This obligation stays in force unless there is a valid excuse or the wife waives her right.

6. SEXUAL TECHNIQUES

Before I start writing anything about sexual techniques, it is necessary to say that no rules and laws exist either in foreplay or in intercourse. The only laws and rules are the ones reached by the lovers by mutual and often unspoken understanding. Whatever is pleasing and satisfying to both the husband and the wife is right and proper; and whatever is mutually displeasing is wrong. The only I imitation to this general rule would be any *shari'ah* rule which goes against the wishes of the husband or the wife.

(A) Foreplay:

Man often forgets that woman also has been created with the same desires as himself. Asbagh bin Nubatah quotes Imam 'Ali that, "Almighty God created sexual desires in ten parts; then

He gave nine parts to women and one to men." But then Allah also gave them "equal parts of shyness." (*Wasa'il,* vol. 14, p. 40) Many times this shyness makes the man ignore the desires of his wife.

Based on this reality, Islam emphasizes on foreplay. Imam 'Ali says, "When you intend to have sex with your wife, do not rush because the woman (also) has needs (which should be fulfilled)." (*Wasa'il,* vol. 14, p. 40) Sex without foreplay has been equated to cruelty. The Prophet said, "Three people are cruel: . ..a person who has sex with his wife before foreplay." (*Wasa'il,* vol. 14, p. 40) Another *hadith* equates sex without foreplay to animal behavior: "When anyone of you has sex with his wife, then he should not go to them like birds; instead he should be slow and delaying." (*Wasa'il*, vol. 14, p. 82) The Prophet said, "No one among you should have sex with his wife like animals; rather there should be a messenger between them." When asked about the messenger, he said, "It means kissing and talking." (*Tahzibu'l-Ihya,* vol. 3, p. 110) Imam Ja'far as-Sadiq has been quoted as follows, "... there should be mutual foreplay between them because it is better for sex." (*Wasa'il*, vol. 14, p. 82) The Prophet said, "...every play of a believer is void except in three cases: horse-riding, archery and mutual foreplay with his wife these are haqq." (*Wasa'il*, vol. 14, p. 83)

As for the role of a woman in sexual foreplay, the Imams have praised a wife who discards shyness when she is with her husband. A *hadith* was quoted earlier from Imam 'Ali which said that women have been given nine-tenths of the sexual desire but Allah has also given them nine-tenths of shyness. (See p. 32) I had promised in Chapter Two to explain the rationale behind this *hadith*. There might seem to be a contradiction in this act of God, but it is not so. Both the sexual desire and the shyness have been placed for very specific purpose. The sexual desire is to be unleashed, yes unleashed, when a woman is with her husband, but it must be shielded with shyness when she is with other people. This has been very eloquently explained by Imam Muhammad al-Baqir when he said, "The best woman among you is the one who discards the armor of shyness when she undresses for her husband, and puts on the armor of shyness when she dresses up again." (*Wasa'il*, vol. 14, p. 14-15) After all, modesty and chastity in public is the hallmark of a Muslim lady.

These sayings clearly show that the husband and the wife should feel completely free when they are engaged in mutual stimulation which is known as foreplay. There is nothing wrong, according to Islam, for a woman to be active and responsive during sex. This is diametrically opposed to the sexual morality of the Christian Western world before the sexual revolution. Russell says, "Western women of a generation or two ago can recall being warned by their mothers that sexual intercourse was an unpleasant duty which they owed to their husbands, and that they were 'to lie still and think of England'. (As quoted in *Sex and Destiny*, p. 94) What else but a sexual revolt could such a morality breed?

As for the Islamic *shari'ah*, all the mujtahids are unanimous in saying that the act of sexual foreplay in itself is *mustahab* (recommended). Likewise, it is recommended not to rush into sexual intercourse. (*Al-'Urwah*, p. 625) The operative word is mutual pleasure and satisfaction.

(B) Techniques of Foreplay:

As far as the methods of mutual stimulation in foreplay are concerned, the *shari'ah* allows the husband and the wife to see, kiss, touch, smell and stimulate any part of each other's body. Therefore, oral sex, as it is known in this part of the world is allowed. Imam Musa al-Kazim was once asked, "Can a person kiss his wife's vagina?" The Imam said, "No problem." (*Wasa'il*, vol. 14, p. 77; for similar views of present mujtahids see *al-'Urwah*, p. 625) The only restriction is that no foreign object should be used. And this restriction is quite understandable: nothing can really substitute the things Allah has created in our bodies!

The restriction I am placing on the use of foreign objects is based on the following *hadith*. 'Ubaydullah bin Zurarah says that he had an old neighbor who owned a young slave-girl. Because of his old age, he could not fully satisfy the young slave-girl during sexual intercourse. She would therefore ask him to place his fingers in her vagina as she liked it. The old man complied with her wishes even though he did not like this idea. So he requested 'Ubaydullah to ask Imam ' Ali ar-Riza (a. s.) about it. When 'Ubaydullah asked the Imam about it, the Imam said, "There is no problem as long as he uses any part of his own body upon her, but he should not use any thing other than his body on her." (*Wasa'il*, vol. 14, p. 77)

In an earlier discussion, we said that masturbation (i.e., self-stimulation of one's own sexual organ till emission of semen or orgasm) is not allowed. However, in the case of married persons, there is no problem if the wife stimulates her husband's penis till the emission of semen or the husband stimulates his wife's vagina till orgasm. (This issue has also been clearly mentioned by the late Ayatullah al-Khu'i in answer to some questions sent by an 'alim from London) This is allowed because it does not come under "self-stimulation;" it is stimulation by a lawful partner. The Qur'an clearly says that, *"The believers are.. . those who protect their sexual organs except from their spouses."* (23: 5-6) And stimulation of sexual organs by a lawful partner surely comes under the definition of protecting one's organ s "except from their spouses."

(C) Sexual Intercourse:

Is there any particular position for sexual intercourse which is forbidden in Islam? No! As far as the basic coital positions are concerned, there are no restrictions. I am using the term 'basic coital positions' for the positions known as the man above, face to face, woman above face to face; side position, face to face; rear-entry position in which the husband penetrates the vagina from the rear. Actually, the *shari'ah* has left it on the husband and the wife to explore and experiment as they wish.

In the early Islamic period, an event took place which clarified this issue for all. The people of Medina, influenced by the Jews, used man-above face to face position during sexual intercourse; whereas the Meccans liked to experiment various positions. After the migration of Muslims to Medina, a Meccan married a Medinan woman and wanted to have sex with her

in his own way. The woman refused and said that he can have sex with her only in one position. The case was reported to the Prophet; so Allah revealed the verse saying *"Your women are a tilth for you, so go in to your tilth as you like."* (2:223) That is, in any position. (At-Tabataba'i, *al-Mizan,* vol. 3 (English translation) p. 319)

However, it is *makruh* to adopt a standing position, or to face the qiblah or keep it on the backside during the intercourse. It is advisable to refrain from the acrobatic positions given by some sexologists of the East and the West which might even cause physical harm. Remember, the basic rule is mutual pleasure and flexibility. If one partner does not like a particular position, then the other should yield to his or her feelings.

(D) Anal Intercourse:

The opinions of our mujtahids vary on the permissibility of anal intercourse. Before mentioning the preferred and correct view, I would like to explain why the mujtahids have differed in their opinions.

This variance in *fatwas* is because of the difference in the *ahadith* we have on this issue. There is a *hadith,* for example, from Imam Ja'far as-Sadiq quoting the Prophet that "The anus of women is *haram* for my community." (*Wasa'il,* vol. 14, p. 104) Now this *hadith* categorically forbids anal intercourse. But, according to 'Allamah al-Hilli and ash-Shahid ath-Thani, the chain of narrators of this *hadith* is not completely flawless. (See Hilli's *Tazkiratu'l-Fuqaha,* vol. 2, p. 576-7; Shahid's *Masalik,* vol. 2, p. 303) On the other hand for example, we have a *hadith* from 'Abdullah bin Abi Ya'fur whose chain of narrators is authentic in which Imam Ja'far as-Sadiq was questioned about a man who had had intercourse in the anus of his wife. The Imam said, "There is no problem in it if she agrees." (*Wasa'il 'sh-Shi'ah,* vol. 14, p. 103)

When faced which such conflicting *ahadith,* most mujtahids have tried to bring them together by taking the apparently more authentic *hadith* (which approves anal intercourse) as a qualifier for the *ahadith* which totally forbid such sex. And in conclusion, they say that the prohibition in such *ahadith* is not on the level of *haram,* instead it is on the level of *makruh.* (See ash-Shahid ath-Thani, *Sharh Lum'ah,* vol. 2, p. 68 and *Masalik,* vol. 1, p. 438-9)

This conclusion of theirs is supported by a third category of *ahadith* on this subject in which the Imams have clearly and strongly discouraged their followers from anal intercourse. An example can be found in the question asked by Safwan al-Jammal to Imam 'Ali ar-Riza (a.s.) in which the latter clearly expressed his personal dislike for such act. (Wasa'ilu 'sh-Shi'ah, vol. 14, p. 102-103)

Therefore the majority of the Shi'ah mujtahids have derived two conclusions: (l) that anal intercourse is not *haram* but strongly disliked (*karahatan shadidah*) provided the wife agrees to it. (2) and if she does not agree to it, then all mujtahids say that it is precautionarily wajib to refrain from it. (See the *fatawa* of all contemporary mujtahids in their annotations to

al-'Urwatu'l-Wuthqa, p. 628)

With all due respect to the great mujtahids who hold the above opinion, I would like to present the preferred opinion. It is true that we have conflicting *ahadith* from our Imams on anal intercourse, but the *ahadith* which approve anal intercourse are not suitable for deriving an opinion. Why? Because, in the case of conflicting *ahadith*, the mujtahid has to contrast them with the Sunni view prevalent at the time when the *ahadith* were issued by the Imams. And, then, those which agree with the Sunni view are to be considered as statements issued under *taqiyyah* and, therefore, not suitable for use in *ijtihad*. (For this methodology, the specialist reader may refer to Shaykh Murtaza al-Ansari, *Rasa'il*, p. 464-468) Using this method of solving the conflicting *ahadith* gives strength to the prohibitive *ahadith* and brings us to the preferred view that anal intercourse is not allowed. (For further details on this view, the specialist reader may refer to the late Ayatullah Syed Rahat Husayn al-Golalpuri, *al-Intisar fi hurmati'l-adbar*, Lucknow, al-Wa'iz Safdar Press, 1354 AH. To know the views of some prominent Sunnis of the Early Islamic period who approved anal intercourse, the English readers can refer to at-Tabataba'i, *al-Mizan* vol. 3 (English translation) pp. 320-321) Probably, it was such a consideration which caused the late Ayatullah al-Khu'i to change his view on this issue. During the last decade of his life, Ayatullah al-Khu'i departed from the majority view and gave the ruling that it was precautionarily wajib to abstain from anal intercourse no matter whether the wife agrees to it or not. (See al-Khu'i, *Minhaju 's-Salihiyn*, vol. 1 (Beirut: 22nd edition) p. 64)

I would strongly advise against anal intercourse, and would like to end this section with the saying of Imam Ja'far as-Sadiq and Imam 'Ali ar-Riza about anal intercourse: "Woman is a means of your pleasure, therefore do not harm her." (*Wasa'il*, vol. 14, p. 101-102)

(E) Decency & Privacy

There was a time when people need not be reminded of some of the basic moral and ethical values, but now we are living in an era where moral values are changing like worn-out car tires!

One such issue is decency of dress at home and privacy at the time of sexual intercourse or intimate contact between husband and wife. There are some people in the West (of course, a minority) who think that it is okay, nay healthy, to stay naked in presence of their children! On a collective basis, they also organize nude camps. Why? So that the children will not think negatively about their own sexuality. Such parents also feel that there is nothing wrong in sexual intercourse in the presence of their children. This behavior is an example of the extreme reaction to the rigid Christian morality. To protect their children from associating sex with evil, some of these parents go to the extent of completely opening up to their children!

Such behavior is not only condemned by those who still abide by religious moral systems, it is equally condemned by those who are familiar with child psychology. A sexual manual read by millions of Westerners says, "Never involve children in adult sexual activities: militant and

exhibitionist liberals who try to acclimatize children to the naturalness of sex by letting them in any level of their own sex lives probably do at least as much harm as was ever done by the prohibitive sex-is-dirty generation."

We have quite a few *ahadith* in which the Prophet and the Imams have emphasized that when you engage in sexual intercourse, make sure that no child (or, for that matter, any other person) sees you or hears you. Abu Basir quotes Imam Ja'far as-Sadiq as follows, "Be careful not to have sex with your wife while a child can see you. The Prophet used to dislike this (attitude) very strongly." (*Wasa'il*, vol. 14, p. 94-95) If a child sees and hears the parents engaged in sexual intercourse, he might go through a shocking psychological experience. It might also create a problem in his own adult life. The manual quoted earlier says, "Most young children are biologically programmed to interpret the sight or sound of adult coition as evidence of a violent assault (they are aware of it earlier than you would expect, so don't keep babies in the bedroom), and the awareness of mother-father sexual relations is on all counts far too explosive a matter to be monkeyed with in the interest of Reichian experiments."

Islam has laid down clear guide-lines about the privacy of adults. Referring to the children who have not yet reached the age of puberty (*bulugh*), the Qur'an says:

O you who believe! ... Those of you who have not yet reached puberty should ask you for permission (before entering your bedroom during) three times: before the dawn prayer, when you put off your garments at midday (for siesta), and after the night prayer these are three times of privacy for you. Besides (these three times), there is no blame on you or them if you go to one another (without announcing yourselves). Thus God makes clear to you the signs, and God is All-Knowing, Wise. (24:58)

Then referring to the children who have reached the age of puberty, the Qur'an says:

> *When your children reach puberty, they should ask your permission (at all times before entering your bedrooms) just as those who were before them had asked permission. Thus God makes clear to you the signs, and God is All-Knowing, Wise.* (24:59)

These two verses give us the following rules about privacy within and without the family circles:

1. There are three times in a day night, early morning and afternoon which are considered as times of privacy.

2. The minor children should be taught that during times of privacy they are not allowed to enter the bedroom of their parents or adults without first asking their permission. Obviously, by minor we do not mean infants; we mean the children who can understand what is right and what is wrong. I would put that at age five and above. The parents will have to ingrain this

teaching to their minor children gradually.

3. At other times, the children are free to come and go into the bedroom of their parents without asking for their permission. In retrospect, this means that the parents should be decently dressed at those other times.

4. As for the mature children and adults, the Qur'an is clear that they may enter the bedroom of their parents or other adults at all times only after asking their permission.

Contraceptives & Abortion

A. INTRODUCTION

The question of birth control has created much debate in the Western world. This question is related to the basic view of sex. On one hand, if you relate sex to the original sin and equate it with evil, and allow sexual intercourse only for the purpose of procreation then, obviously, you will be totally opposed to birth control. Allowing birth control would mean allowing sex for pleasure. On the other hand, if you consider sex to be a natural act whose purpose is two-fold: procreation and/or fulfillment of sexual desire, then you would allow birth control. The debate on the use of birth control, moreover, is intertwined with the issue of abortion.

On the whole, there are three opinions on birth control and abortion. On the one extreme, the Roman Catholic Church (See *Instruction on Respect for Human Life in Its Origin and the Dignity of Procreation: Replies to Certain Questions of the Day,* Vatican City, 1987.) forbids birth control as well as abortion; ('Allamah Rizvi comments on the Catholic view as follows: "The Vatican seems oblivious of [the] simple difference between underlying reason of a law and the law itself. That is why it has totally prohibited use of contraceptives, on the plea that it goes against the philosophy of marriage. But does Vatican have the conviction of courage to take this 'argument' to its logical end? Is it prepared to forbid intercourse with a pregnant wife, or ban marriage of infertile men or women? They should have banned these and other examples...because they too cannot produce pregnancy. The prelates of the Roman Catholic Church all unmarried men are perhaps unaware that lawful satisfaction of sexual urge is in itself a valid underlying reason of marriage." See the footnote in *al-Mizan*, vol. 8 (English translation) p. 104.) and on the other extreme, the libertarians and feminists consider birth control and abortion as the basic rights of women. In between these two extremes, Islam allows birth control but forbids abortion.

According to the Shi 'ah *fiqh*, family planning as a private measure to space or regulate the family size for health or economic reasons is permissible. Neither is there any Qur'anic verse or *hadith* against birth control, nor is it wajib to have children in marriage. So basically, birth control would come under the category of *ja'iz*, lawful acts. Moreover, we have some *ahadith* (especially on the issue of *'azl, coitus interruptus*) which categorically prove that birth control is permissible. Imam 'Ali once said, "One of the two (means) of affluence is to have few dependents." (*Nahju'l-Balaghah,* saying No., 141; *Tuhaf,* p. 214) Imam Ja'far as-Sadiq said that, "[Imam] 'Ali ibnul Husayn (peace be upon him) saw no problem in *coitus interruptus* and he used to recite the verse that 'When your Lord brought forth from the

children of Adam (i.e., from their loins) their seed...'[7:172] So from whatsoever [seed] Allah has taken a covenant, it is sure to be born even if it is [spilled] on a hard rock." (*Wasa'il*, vol. 14, p. 105) The Imam is saying that the creation is in the hand of Allah alone. Whether or not we practice birth control, if Allah wills, the child will be conceived. In effect, these *ahadith* are a positive proof that birth control is allowed in Islam.

* * *

However, sometimes the issue of birth control is politicized by the imperialists and racist regimes; and in such cases, the supreme mujtahid has the right to temporarily forbid the use of birth control on the basis of secondary reasons (*hukm thanawi*). For example, if the Russian communist government plans to impose or promote birth control in its Muslim provinces not because of health reasons but because it fears that the high birth rate among the Muslims might offshoot their minority status, then the mujtahid can issue a *fatwa* saying that to practice birth control in Soviet Russia (without any health reasons) would be *haram*. Or if the Israeli government, for example, promotes birth control among the Muslims inside the occupied Palestine, then the mufti can prohibit it. Similarly, if the Indian government or the Maronite government of Lebanon intends to promote birth control among their Muslim citizens, then the supreme mujtahid can prohibit the use of birth control. Such *fatwas* will just be of a temporary nature; once the issue is depoliticized, the primary law will be applied again.

B. WHEN DOES PREGNANCY BEGIN?

Islam allows the preventing of pregnancy, but does not allow its termination. However, the problem arises in defining the beginning of pregnancy from the *shari'ah* point of view. Before we look at various methods of birth control, we must first define the beginning of pregnancy; and only then will we be able to say which method is permissible and which is not. My research has failed to find a discussion in the classical *fiqhi* books on the *shari'ah* definition of pregnancy. Even the present mujtahids have not discussed it. I intend, by putting my trust in Allah, to briefly study the issue in light of the scientific explanations and try to arrive at a *shar'i* definition of pregnancy.

A few words on the criteria of *shar'i* definitions is necessary in order to understand the purely legal discussion on the definition of pregnancy.

1. CRITERIA OF SHAR'I DEFINITIONS

There are three possible criteria for definitions of things and concepts in fiqh: *shar'i, 'urfi* and *'ilmi*.

(1) If something is clearly defined in the *shari'ah*, then it is known as the *shar'i* definition; for example, the definition of the word *"salat"* as the ritual prayer consisting of specific actions and recitations.

(2) *'Urf* means conventional, common tradition. *'Urfi* definition means a definition acceptable to the common people without any scientific or *shar'i* precision.

(3) *'Ilmi* definition means a definition presented by science; for example, the definition of pure water as H20, a liquid compound consisting of 2 parts of hydrogen and 1 of oxygen, or the definition of the beginning of day as the astronomical twilight. (I have used the terms "*shar'i* definition," "'*urfi* (common) definition," and "'*ilmi* (scientific) definition" to simplify the matter for the non-specialist readers, however, in the terminology of *fiqh*, the three definitions or perceptives are known as "*al-'urfu 'sh-shari'*," "*al-'urfu 'l-'amm*," and "*al-'urfu 'l-khass*" respectively. The specialist reader may refer to Shaykh Murtaza al-Ansari's *al-Makasib*, p. 193 for further details on definitions and perceptions in the *shari'ah*.)

If the *shari'ah* defines something, then we must follow the *shar'i* definition. But if it is silent on the definition of certain things, then should we follow the *'ilmi* definition or the *'urfi* definition? Anyone who is familiar with the *shari'ah* will agree with me that in the absence of a *shar'i* definition, one has to follow the *'urfi* definition. One has to go by the common perception of things, not the scientific perception. For example, when the *shari'ah* says that the water for ritual ablution must be pure (*mutlaq*) does it mean scientifically pure? Certainly not! Otherwise, the running water in this part of the world is not scientifically pure, it has some purifying chemicals in it, for example, fluoride. The *shari'ah* says that such water will still be classified as pure unless the common people can sense (without the help of a scientific lab) the difference in its color, taste or smell.

However, there is one case where the *ilm* definition will prevail: in cases where the common people have no way of defining the issue. So in cases where the *shari'ah* is silent and the *'urf* has no opinion, one has no choice but to follow the *'ilmi (*scientific) definition. The definition of the beginning of pregnancy is one such case where the *'ilmi* definition would prevail; this is so because the *shari'ah* is silent, and it is beyond the common people to define when pregnancy begins. Therefore, in this case, we will first see how science describes the beginning of pregnancy and then attempt to find secondary proofs from *shari'ah* sources to arrive at a conclusion.

2. THE SHAR'I PREGNANCY

The process of conception and pregnancy according to modern science is as follows: After the semen is ejaculated into the vagina, the sperms move into the uterus, cross the uterus and enter the fallopian tube. The woman's ovum is in the fallopian tube. The sperms travel into the fallopian tube in search of the ovum. When the sperms reach the ovum, normally only one of them succeeds in penetrating the ovum. This coming together of man's sperm and woman's ovum is known as fertilization. After fertilization, the ovum starts to travel towards the uterus; and after coming into the uterus, it gets implanted on to the wall of the uterus. This process is known as implantation of the fertilized ovum in the womb.

To determine the *shar'i* pregnancy, one has to answer the following question: From the *shari'ah's* point of view, does pregnancy begin

(1) with the entering of semen into the uterus or
(2) with the fertilization of an ovum by a sperm in the fallopian tube or
(3) with the implantation of a fertilized ovum in the uterus?

It is my contention that the combination of three things form the *shar'i* pregnancy: the sperm, the ovum and the uterus. If any two of these things combine without the third, then it is not a *shar'i* pregnancy. As I shall prove below, the *shar'i* pregnancy begins when the fertilized ovum implants itself onto the wall of the uterus.

* * *

In my search for a *shar'i* definition, the closest issue I could come to was the discussion under the indemnity for abortion. In Shi'ah fiqh, the indemnity for abortion differs according to the various stages of pregnancy. However, what is relevant to our discussion is the indemnity for the first four months of pregnancy. The child in its mother's womb during this time goes through five stages gradually with distinctive names:

> *nutfah*, when it is a sperm;
>
> *'alaqah*, when it is a blood-like clot;
>
> *muzgah*, when it is a lump of flesh;
>
> *'azm*, when bones are formed,
>
> *yaksu lahman*, when bones are clothed with flesh.
>
> (This is based on the Qur'an, see 23: 12-14)

The first stage is very crucial in our search for the beginning of pregnancy. Most *ahadith* simply say that the lowest indemnity is for aborting "a *nutfah* sperm." (*Wasa'il*, vol. 19, pp. 169, 237-240) At the first look it would seem that according to these *ahadith*, pregnancy starts as soon as the sperm enters into the uterus. This would mean that preventing the semen from entering into the uterus is allowed but once it has entered the uterus, then it is forbidden to abort it. But this is not so. This would have been correct if the word *"nutfah"* is taken only in its literal sense in which it means "a sperm". However, in *fiqh* and *hadith*, the word *"nutfah"* is used both for a sperm as well as for a fertilized ovum. Fortunately this extended meaning of the word *"nutfah"* has been clarified in *hadith*; for example, the following *hadith* by Imam Zaynu 'l-'Abidin (a.s.).

> Sa'id bin al-Musayyab asked Imam 'Ali Zaynu 'l-'Abidin about a person who hits a pregnant woman with his leg and, as a result, she lost what she had in her womb. The Imam said, "If it is a (*nutfah*) sperm, then he must pay her 20 dinars." Sa'id asked, "What is the definition of *nutfah*?" The Imam said, "It is a substance which, when placed in the womb, settles down in it for forty days."
>
> (*Wasa'il*, vol. 19, p. 240. Also see p. 238, 242)

The Imam has used two words to describe the *nutfah*: (1) *wuzi'at fi'r-rahm* it is placed in the uterus, and (2)*fastaqarrat fihi* it settles down in it (i.e., the womb). It seems the Imam is emphasizing that the earliest stage of abortion is not when the sperm enters the uterus for the first time and just passes through it, rather when it settles down in it. Obviously the "settling down of the sperm in the uterus" and "implantation of a fertilized ovum in the uterus" are one and the same thing.

It is needless to say that the distinction between the entrance of sperm into the womb, then the fertilization of ovum in the fallopian tube and finally its implantation was not clearly known to the scholars of *fiqh* and the scientists till a century ago. But the word "*istiqrar* = settling down" shows that our *'ulama'* were not completely unaware of the fact that the sperm goes through various stages before "settling down" in the uterus. If they had been completely unaware, then they would not have used the word *istiqrar*, instead they would have just said "the entering of the sperm into the uterus." This difference becomes more clear in the writing of the *'ulama'* of post-seventh Islamic century. Before the seventh century, we find the expression such as *"ilqa'u 'n-nutfah"* (the entering of the sperm into the uterus).(*Sharaya'u 'l-Islam*, p. 1042; *an-Nihayah*, p. 778.) But after the seventh century, the *'ulama'* consistently began using the expression of *"istiqraru 'n-nutfa"* (the settling down of the sperm in the uterus). (*Tabsirah*, p. 216; *Sharh Lum'a,* vol. 2, p. 444; Tahrir, vol. 2. p. 597.)

Even the present mujtahids describe the earliest stage of abortion as follows: "aborting a sperm after its settling down in the womb (*ba'd istiqrari 'n-nutfah fi 'r-rahm*)." (After publication of the first edition of this book. it was my great pleasure to see in the late Ayatullah al-Khu'i's lecture a statement which completely concurs with my definition of pregnancy. He said. "The criterion in applying the [word] 'pregnant' for a woman is correct only after the settling down (*istiqrar*) of the sperm in her womb because just the entering of the sperm in her womb does not make her pregnant." See al-Gharawi, Mirza 'Ali, *at-Tanqih fi Sharhi 'l-'Urwati 'l-Wuthqa* (notes of the *fiqh* lectures of al-Khu'i), vol. 7 (Najaf: al-Adab Press, 1988) p. 206.)

Moreover, the Qur'an has always used the word "*haml*" to describe pregnancy. (See the Qur'an, 19:22; 31:14; 46:15) "*Haml*" means to carry, and it is obvious that a woman carries the child in her uterus and not in her fallopian tube. And *haml* starts with implantation and not before it. (A close physician friend of mine pointed out to me that pregnancy in the fallopian tube (known as tubal pregnancy) is possible. However, this information does not

affect our argument because tubal pregnancy is not a normal pregnancy. In the matter of definitions, abnormal possibilities are not taken into consideration. More so in abnormalities like tubal pregnancy: the fallopian tube is not big enough for development of a fetus, and the tubal pregnancy has to be surgically aborted otherwise the mother might end up loosing her own life.)

In conclusion, I can say that the beginning of pregnancy from the *shari'ah* point of view is the stage when the fertilized ovum is implanted (*istiqrar*) onto the lining of the uterus. And, therefore, whatever prevents implantation is all owed but whatever aborts an implanted ovum is *haram*.

A year after reaching my decision in 1986, I wrote to Ayatullah al-Khu'i asking for his opinion on this issue: "From medical point of view, after the sperm enters the vagina, it crosses the uterus and enters the fallopian tube. In this tube, the sperm joins the ovum. Then the fertilized ovum enters the uterus and implants itself onto its wall. (Apparently, the expression *'istiqraru 'n-nutfa fi 'r-rahm'* in the writings of Islamic jurists refers to this implantation of the fertilized ovum onto the wall of the uterus.) "By keeping in mind what has been said above, is it permissible to use a medicine or a device which prevents the fertilized ovum from implanting itself onto the wall of the uterus?" Ayatullah al-Khu'i replied that: "What is forbidden is to abort the sperm after its settling down, whereas [to prevent pregnancy] before that is alright. However, to specify the minor and major premises of both these issues is upon the individual himself." (Personal correspondence dated 24 Rabs' II, 1407 (1987).)

I think the answer of the Ayatullah needs some explanation for those not familiar with the *fuqaha's* style. In the first part of his answer, the Ayatullah agreed that what is forbidden in relation to birth control is the act of aborting the sperm after it had settled down in the womb. In the second part of his answer, he declined to take it upon himself to specify when does "the settling down of the sperm" occur: soon after the sperm enters into the uterus or after its return from the fallopian tube? (In light of the statement of the late Ayatullah al-Khu'i quoted on p. 116 of this edition, he also believed that the settling down of the sperm occurs after its return from the fallopian tube.)

Based on the scientific explanation given earlier and the use of the word *istiqrar* in the *hadith* in relation to the *nutfah* and the writings of our *'ulama'* on the earliest stage of abortion, I consider the implantation of a fertilized ovum onto the wall of the uterus as the beginning of pregnancy from the *shari'ah* point of view. Now we can easily decide on the permissible means of birth control. Any method that prevents pregnancy before the implantation of the fertilized ovum is allowed, and any method that terminates pregnancy after the implantation is not allowed and will be considered as abortion. It is in the light of this criterion that we should look at the various methods of birth control that are presently available.

It was interesting to know that two years after I reached my conclusion on the *shari'ah* basis, Dr. Clifford Grobstein, a leading embryologist of America, published the same conclusion on

the basis of his scientific research. Dr. Grobstein, whose evenhanded approach has won him places on the ethics committees of both the American Fertility Society and the Catholic Health Association, published his Science and the Unborn in 1988. He writes,

> "In the last several decades, chiefly as the result of extensive studies of mouse development, it has become clear that in the earliest stages of each new generation, mammals (including humans) go through a preliminary pre-embryonic phase before they become embryos in the usual scientific sense...
>
> "In mammalian development, which normally occurs within the body of the mother (internal gestation), it is now evident that the early changes undergone by the zygote first establish multicellularity and, second, prepare for penetration into the maternal uterine wall, or implantation. The second step, as we have noted, is the true beginning of gestation or pregnancy."
>
> (Grobstein, Science and the Unborn, p. 58-9.)

C. THE CONTRACEPTIVE METHODS

The contraceptive methods during our time work in different ways. We shall examine some of the most commonly used contraceptive methods and determine whether they are permissible in Islam or not. It must be mentioned that we are studying the permissibility of these methods from the *shari'ah* point of view only. For the medical opinion about the reliability or any side-effects of these methods, the reader must consult his or her physician.

1. Oral Contraceptives:

Birth control pills prevent conception by inhibiting ovulation. The pills alter hormonal levels and suppress the hormonal signal from the gland for the ovaries to release an ovum. These pills are taken orally on a precise schedule for 20 or more days during each menstrual cycle. Since all such pills inhibit ovulation, there is absolutely no problem in using them. However, the individual must consult the physician about possible side-effects.

There are some pills which work after the intercourse has taken place, for example, the 'morning-after pill' or the recently developed RU486 pill. Since in our definition, pregnancy begins at implantation, use of any pill which may prevent implantation is alright. Therefore, the pills like the 'morning-after' and RU486 may be taken after the intercourse BUT not after feeling or knowing that pregnancy has already occurred.

2. Depo-Provera:

Depo-Provera works exactly like the pills, but instead of taking it orally it is injected once every three months. This and other similar contraceptive methods by injection are also permissible.

3. Intrauterine Devices (IUD):

IUDs are plastic or metal objects, in a variety of shapes, that are implanted inside the uterus. The medical experts do not exactly know how IUD works. Presently there are two opinions: one says that IUD prevents fertilization; and the other says that it prevents the fertilized ovum from implantation onto the uterus. Since the *shari'* pregnancy begins at implantation, there is no problem in using IUD as a birth control device irrespective of the above differences among the medical experts.

4. Barrier Devices:

All barrier devices prevent the sperm from entering the uterus. This is done by sheathing the penis with a condom, or by covering the cervix with a diaphragm, cervical cap, or vaginal sponge. The use of spermicidal substances which kill the sperm before reaching the ovum is also a barrier device. There is absolutely no problem in using these contraceptives either.

5. Abstinence During Fertile Period:

There are three basic procedures to predict ovulation so that sexual intercourse can be avoided during the approximately six days of a woman's most fertile monthly phase. These three methods are as follows:-

(a) Ovulation Method: A woman learns to recognize the fertile time by checking the difference in the constitution of the cervical mucus discharge. The cervical mucus discharge signals the highly fertile period; and thus avoiding sex during the fertile days prevents pregnancy.

(b) Rhythm Method: A method similar to the first, but it depends on observing the monthly cycles for a whole year to determine the fertile days.

(c) Temperature: In this method, besides keeping a calendar record of her cycle, a woman also takes her temperature daily to detect ovulation. She can know her ovulation whenever her basal body temperature increases.

6. Withdrawal (Coitus Interruptus):

Coitus interruptus means withdrawing the penis just before ejaculation. This was the most common method of birth control before the invention of modern devices.

Muhammad bin Muslim and 'Abdur Rahman bin Abi 'Abdillah Maymun asked Imam Ja'far as-Sadiq about withdrawal. The Imam said, "It is up to the man; he may spill it wherever he wants." (*Wasa'il*, vol. 14, p. 105) However, in another *hadith*, Muhammad bin Muslim quotes the fifth or the sixth Imam as follows: "In case of a slave-girl, it is allowed, however, in case of a free woman, I dislike it unless it had been so stipulated at the time of

marriage." (*Wasa'il*, vol. 14, p. 106)

Based on this *hadith*, the majority of our mujtahids believe that coitus interruptus is allowed but *makruh* without the wife's consent. (*Sharh Lum'a*, vol. 2, p. 28; *al-'Urwah*, p. 628; *Minhaj*, vol. 2, p. 267)

All methods mentioned above do not involve surgical operation and they are also reversible. A woman (or man) using these methods can stop using them at anytime in order to have a child.

7. Sterilization:

Sterilization involves surgical operation.

Sterilization in men, known as vasectomy, means the severing or blocking of the tube in the male reproductive tract. This tube or duct passes sperm from the testes to the prostate and other reproductive organs.

Sterilization in women, known as tubal ligation, involves the blocking or severing of the fallopian tubes which transport the ovum.

The permissibility of sterilization depends on whether or not it is reversible. At present, the rate of reversibility (40%) is not good enough to make sterilization permissible. Greater success may be achieved with improved micro surgical techniques. And until we achieve at least 80 percent reversibility, it is difficult to permit sterilization.

Can a woman practice birth control without the consent of her husband?

The wife has full right to the use of contraceptives even without the approval of her husband. (*Minhaj*, vol. 2, p. 276) However, she should not use a method which may come in the way of her husband's conjugal rights. For example, she cannot force him to use condom or practice coitus interruptus. This rule is based upon the principle that the extent of the husband's conjugal rights over his wife is just that she should be sexually available, responsive, and cooperative. This right does not extend to that of bearing children for him. Bearing children or not is a personal decision of the woman; and therefore, she may use contraceptives provided they do not come in the way of her husband's conjugal rights.

This was the legal aspect of the *shari'ah*. But on a practical level, such decisions are best made with mutual consultation between the husband and the wife; otherwise, it could lead to misunderstanding and mistrust. The legal aspect is to protect the basic rights of women; but in the real world, man and woman must base their life on love, mercy and cooperation as the Qur'an says, "And We have created between you love and mercy."

D. ABORTION

Islam's approach to the issue of birth control and abortion is very balanced. It allows women to prevent pregnancy but forbids them to terminate it. Abortion after the implantation of the fertilized ovum in the womb is absolutely forbidden and is considered a crime against the law of God, and the fetus.

From the Islamic point of view, the illegitimacy of aborting a fetus does not depend on the issue of whether the fetus has the status of a human being or not. Although Islam does not recognize the fetus as a human being, it still gives to it the right of a possible life.

Abortion has become common in the Western world for various reasons

1. sometimes it is a matter of choice between a child and a career;
2. sometimes it is a matter of choice between a child and a luxurious life-style;
3. sometimes it is because of the child's illegitimacy;
4. sometimes it is because of the wrong sex of the child;
5. sometimes it is because of rape.

All these justifications are unacceptable from the Islamic point of view. The first two excuses reflect the selfish nature of this materialistic society. Allah says, *"Do not kill your children because of (fear of) poverty. We will provide for you and them."* (6: 152) *"Do not kill your children for fear of poverty; We will provide for them and you. Surely the killing (of children) is a great error."* (17:31) The third excuse is a by-product of illicit sexual relations which Islam strongly condemns. The fourth reason is no less evil and cruel than the pre-Islamic Arab custom of burying baby girls alive.

As for the fifth case involving rape, the lady should use the morning after pill or RU486 immediately after the sexual assault in order to prevent the possible implantation of a fertilized ovum. But if pregnancy is established, then Islam does not allow abortion. In such cases, Islam says that why abort the child for the crime of the father? As for the reputation of the woman, Islam strongly condemns the people who look down upon the rape victim; instead of reviling her, they should be sympathetic to her.

Modern technology (like ultra sound scan) has made it possible to know whether or not a child has a defect long before he is born. Some people justify the abortion of a defective fetus. The present mujtahids do not allow such abortions; they say that the parents should pray and hope for a normal and healthy child. There are many examples where the prediction of the doctors have been proven wrong! In other words, what our mujtahids are saying is that take preventative measures before going for pregnancy; but once pregnancy has taken place, you are not allowed to abort a fetus even if it is defective.

The *shari'ah* allows abortion only when doctors declare with reasonable certainty that the continuation of pregnancy will endanger the woman's life. This permission is based on the principle of the lesser of the two evils known in Islamic legal terminology as the principle of *al-ahamm wa 'l-muhimm* (the more important and the less important). The Prophet said,

"When two forbidden things come [upon a person] together, then the lesser will be sacrificed for the greater." In the present case, one is faced with two forbidden things: either abort the unborn child or let a living woman die. Obviously, the latter is greater than the former; therefore, abortion is allowed to save the live person.

Chapter Five

New Techniques in Human Reproduction

The birth of the first 'test-tube-baby' in 1978 made headlines all over the world. All the world, with the exception of the Vatican, welcomed this new development in human science. After all, man is the prime creation of God. Allah has created the universe for man but created the man for Himself. During the last five decades, man has taken great leaps in science and technology. One of the areas which has amazed us most is the new techniques in human reproduction.

It is interesting to note that even on this issue, Islam stands in the middle of the two extreme views: On the one hand, the Roman Catholic Church has categorically condemned in vitro fertilization, artificial insemination and surrogate motherhood. On the other hand, the libertarians allow these methods no matter whether it is done between married couples or others. Islam, as we shall see below, allows the new reproduction technology as long as it is done between the married couples. In this chapter, we will examine the new techniques designed to help couples in reproduction, and see whether Islam agrees with them or not.

A. HUMAN REPRODUCTION TECHNIQUES

1. ARTIFICIAL INSEMINATION BY HUSBAND (AIH)

AIH is used when the husband can produce semen, but his semen is not quite adequate to achieve fertilization. The inadequacy of semen can be attributed to low number of active sperms or the inability of sperms to swim fast enough towards the ovum. AIH can also be used when the husband is suffering from premature ejaculation.

In AIH, the sperm is obtained from the husband by his masturbation and is then concentrated and 'improved' in the laboratory. This semen is then introduced into the wife's cervix at the best fertile days. The semen is introduced by an injection. Depending on the regulations of each institute, the injection can be carried out by a doctor or a nurse, or by the couple themselves

As far as the *shari'ah* is concerned, there is no problem in the Artificial Insemination by Husband (AIH) as it is done between a lawfully wedded couple.

Masturbation is forbidden, then how can the husband's semen be obtained for AIH? It is true that masturbation is forbidden in Shi'ah *fiqh*, but we have also said that masturbation by one's spouse is permissible. Therefore, in case of AIH, the wife can masturbate the husband in

order to obtain the semen. It will be interesting to know how the Roman Catholics intend to solve this problem: "The Roman Catholic Church does permit artificial insemination if the husband's semen is used and is the product of intercourse with his wife, not masturbation, but this usually involves intercourse in a doctor's office and is 'hardly romantic,' Father Wolak said." (*The Vancouver Sun* (March 11, 1987) p. A7.)

2. ARTIFICIAL INSEMINATION BY DONOR (AID)

AID is very similar to AIH. However, AID is used in cases where the husband's semen is definitely inadequate in quantity or quality. In the Western society, some single women who wish to remain unmarried but have a child also use this method to become pregnant. In England, two to four thousand births in a year are attributed to AID.

As far as Islam is concerned, Artificial Insemination by Donor is absolutely forbidden because it is by a donor and not by the woman's husband.

Since it does not involve any sexual relations between the donor and the woman, and therefore, cannot be categorized as fornication or adultery some people may ask: how can it be haram? The Qur'an clearly says, *"Say to the believing women that they...should guard their private parts."* (24:30) The divine command to guard the private parts is unqualified; it does not say that guard only from illicit sexual intercourse; it says that guard from everything except from your spouse. Allah describes the believers as *"those who protect their private parts except from their spouses.... Therefore, whosoever seeks more beyond that, then they are the transgressors."* (23:5) Therefore, even injecting the sperm of another man would constitute a transgression and a violation of the command of Allah. (I am indebted for this answer to the late Shaykh Muhammad Jawad al-Mughniyyah in his marvelous book *al-Fiqh 'ala 'l-Madhahibi'l-Khamsah*, p. 374.)

What is the status of a child conceived by AID?

If, God forbid, a woman conceives a child through AID, then the child will not be considered an illegitimate child because he was not conceived through illicit sexual relations. Child-mother relationship is clear in such cases; as for the child-father relationship, most of our present *'ulama* clearly state that he will be considered the child of the donor the child will inherit him, be a *mahram* to his wife and children. (*Al-Fiqh*, p. 375-6; *Minhaj*, vol. 2, p. 395; *Tahrir*, vol. 2, p. 621-622)

This decision of the mujtahids is based on a *hadith* which provides an example very similar to the case of a child conceived by AID. This *hadith* has been narrated by various sources from Imam Hasan, Imam Muhammad al-Baqir and Imam Ja'far as-Sadiq (peace be upon them all) . A question was put to the Imams that if a woman had intercourse with her husband, and then immediately she goes to her slave-girl and has lesbian relations with her in which semen of the husband flows from the woman into the vagina of the slave-girl and makes her pregnant. What happens in this case? The Imams, after explaining the punishment

which has to be imposed upon the two women, say that the child born from the slave-girl will be related to, and given in the custody of, the owner of the semen. (*Wasa'il*, vol. 18, p. 426-428.)(This is a very good example of how our *'ulama'* solve the modern day problem even though they use the same old sources of Islam !)

3. IN VITRO FERTILIZATION (IVF)

The first two methods were for cases where the husband's sperm lacked in quality or quantity. IVF is a technique used mostly for women whose fallopian tubes are blocked and cannot be remedied by surgical procedures. Also for those who fail to conceive despite having normal fallopian tubes and when all possible causes of infertility have been excluded. "In vitro" means a test-tube.

In IVF, one or more ova are removed from the mother through a small syringe and placed in a test-tube. Then the sperm of the husband is used to fertilize the ovum. After fertilization, the ovum is allowed to develop in the test-tube till the eight-cell stage. Then it is implanted into the mother's womb.

IVF may also be used in cases where the husband's semen contains so few sperms that it becomes difficult for them to fertilize an ovum in the fallopian tube. By IVF, sperm of such a person is used to fertilize the ovum in a test-tube. As far as the *shari'ah* is concerned, in vitro fertilization is allowed as long as it be being done between a married couple.

4. OTHER POSSIBILITIES IN HUMAN REPRODUCTION DISCUSSED BY OUR 'ULAMA'

It will be of interest to know that our mujtahids are keeping themselves ahead of scientific technology in deciding the religious and ethical issues about human reproduction. While talking about artificial insemination, they also talk of the following possibilities:

1. It is permissible to invent an artificially made ovum, fertilize it with a man's sperm and let the child develop in an artificial womb . In this case, the child will be fully related to the father. At most, he or she will be a child without a biological mother.

2. It is permissible to invent an artificially made sperm and inseminate it into a woman's womb. Such a child will be fully related to the mother. At most he or she will be a child without a biological father.

3. It is permissible to take an artificially made ovum and an artificially made sperm, and then fertilize and develop the two in an artificial womb. Such a child will be related to no one!

4. If a twin boy and girl are born through the above procedures, then in the first two cases they will be normal siblings for example, they cannot marry one another but in the third case, they will not even be considered as siblings because they do not have a parent. (The first example has been mentioned by both Ayatullahs al-Khu'i and al-Khumayni, whereas the

other three arc mentioned by the latter only. See *Minhaj*, vol. 2. p. 395 and Tahrir vol. 2, p 622-623.)

5. SURROGATE MOTHERHOOD

Surrogate motherhood is a by-product of the artificial insemination. It has created great controversy in the legal and ethical circles around the world, especially so after the baby 'M' case of 1987.

Surrogate motherhood means that a woman allows a fertilized ovum of another couple to be injected into her womb. Then she carries the child to its full term for the other couple. This can be done free or in exchange for some money as was the case in baby M's birth. This procedure of human reproduction is adopted when a woman has a problem in carrying her child to its full term. From the *shari'ah* point of view, surrogate motherhood as portrayed above is not allowed because it involves the insertion of a sperm of another person into the woman's uterus. This goes against the verse of the Qur'an which says that the believing women should guard their private parts except from their spouses.

* * *

There are, however, certain procedures in Islamic marriage system which would allow some form of surrogate motherhood. For example, if a woman is having problems in carrying her husband's child to its full term, then the husband may marry another woman (on a temporary or permanent basis) and then an ovum of the first wife fertilized by the husband's sperm can be injected into the womb of the second wife with her approval.

To which of the two wives will the child belong? Does it belong to the genetic mother (the first wife) or the biological mother (the second wife)? According to Ayatullah al-Khumayni it depends on the age of fetus. If it was inseminated in the womb of the second wife after four months, then it belongs to the first wife the second wife is just a receptacle. If it was inseminated before its fourth month, then it is difficult to say that the child belongs to the first wife. (*Tahrir*, vol. 2, p. 623)

However, there is another way of looking at this relationship. I have already talked about the *'urfi* and *shari'* definitions earlier. In the present case, the common people have a perception about child-mother relationship. The *'urfi* would say that the woman who "gives birth" is the mother. So based on this *'urfi* perception, I would say that the child belongs to the biological mother, the second wife irrespective of its age at the time of insemination. The child will be *mahram* to her other children and will also inherit from her.

As for the relationship between the child and the first wife, I would say that although she is not a biological mother, but her status as a genetic mother places her above a *riza'i* mother. (A *riza'i* mother is a woman who did not give birth to the child but breast-fed him or her.) Based on this relationship, the child will be *mahram* to all the children of the first wife even

if they be from a different father; however, he or she will not inherit from her because the right of inheritance is based on uterine relationship.

B. SOME ETHICAL QUESTIONS

What you will read below are issues being discussed for the first time from the *shari'ah* point of view. These are the results of my initial interpretation. I hope this will stimulate a fruitful discussion among our mujtahids.

1. DESTROYING THE EXTRA FERTILIZED OVA

In most cases of artificial insemination, three ova are removed from the woman's body and all three are fertilized by the husband's sperms. But only one is used for reimplantation into the woman's womb. And if it fails in the first attempt, then the other fertilized ova are used. The question which has created much controversy is about the extra and unwanted fertilized ovum. What should be done with the extra fertilized ovum? Must it be used? Can it be destroyed?

According to the *shari'ah*, there should be no problem in destroying the extra fertilized ovum. It will not constitute abortion because, firstly, abortion only takes place after the implantation of the fertilized ovum in the womb and, secondly, abortion takes place in a woman's body not in a test-tube or a laboratory dish!

2. FROZEN EMBRYOS

Another by-product of the new technology is the so-called sperm bank where sperms and fertilized ovum are preserved in frozen state. There are four questions which must be addressed here.

Firstly: Is man allowed to preserve his sperms in frozen state? Similarly, are married couples allowed to preserve their fertilized ova for future use? I can think of no *shari'ah* basis for prohibiting such an act. It is no different from the act in which a person banks or donates his blood.

Secondly: Is it permissible to sell the sperms or the fertilized ova? One cannot sell his sperms to be injected into the uterus of another woman; he may only sell it to a scientific institution for medical research. Similarly, a couple cannot sell their fertilized ova to be implanted into the womb of another woman.

Thirdly: Can a woman use the preserved fertilized ovum or sperms of her husband after the latter has died? Apparently, there is nothing to prevent her from doing so. The frozen ovum (fertilized by her husband's sperm) is her property and therefore she can use it. The child will, of course, be legitimate! However, this would be allowed only if the woman does not marry another person after her husband's death. Since Islam does not allow a woman to have more than one husband at a time, the second husband will take the place of the first in the

verse which says, protect their private parts except from their spouses." (23: 5)

Fourthly: Can a woman use the fertilized ovum after she has been divorced from her husband? This is allowed only if she has not married another person. As soon as she marries another person, she cannot use the ovum fertilized with the sperm of her previous husband. The basis of this view is the same as mentioned above.

Sources of the Shari'ah

In Islamic system, the issue of sexual morality comes under the *shari'ah*, the laws of Islam. Therefore it seems appropriate to explain the sources of the *shari'ah* from our point of view. The primary sources of the Islamic laws are two things: the Qur'an and the sunnah. By the sunnah, we mean the sayings, actions and silent approval of the Prophet and the Ahlu'l-bayt.

The Qur'an describes only the basic rules of the *shari'ah*, and the *sunnah* elaborates upon them. The Qur'an introduces the Prophet of Islam as follows: *"He (Allah) raised up among the common people a Messenger from among themselves to recite to them His revelations, to purify them, and to teach them the Book and wisdom;"*(62:2) *"And We have revealed to you (O Muhammad) the Reminder (i.e., the Qur'an) so that you may clarify to the people what has been revealed to them, and so that they may reflect."* (16: 44) These two verses definitely prove that Prophet Muhammad (peace be upon him) was not just a 'mail-man' whose only job was to deliver the Book to us. He was a teacher and a commentator of the Qur'an. Even his actions are a source of guidance for us: *"You have a good example in Allah 's Messenger for whosoever hopes for God and the last day, and remembers God oft."* (33:21) The obedience tot he Prophet has been considers as the proof of loving Allah: *"Say (O Muhammad): 'If you love Allah, then follow me; (if you do so,) Allah will love you and forgive you your sins.'"* (3:31) To show the importance of obeying the Prophet, the Qur'an further says, *"Whoever obeys the Messenger has surely obeyed Allah."* (4:80)

The Muslims who lived during the Prophet's time had easy access to his *sunnah*. What about use who were born hundreds of years after the Prophet's death? Well, the Muslims of the early days realized the importance of the Prophet's *sunnah* and started preserving his sayings in books of *hadith*. Even the actions of the Prophet, observed by the companions, were preserved in writing. But this process of preserving the *sunnah* of the Prophet was not immune from mistakes and even forgery. Many sayings were invented and wrongfully attributed to the Prophet during the early period of the Islamic history. Therefore, it is absolutely necessary to find an authentic and, at the same time, informed source for the *sunnah* of the Prophet.

When you look at the Muslims of the Prophet's days, you can find no one who might be more knowledgeable, informed, reliable and closer to the Prophet than the Ahlu'l-bayt, the family of the Prophet. After all, it is the Qur'an which testifies to their spiritual purity of highest category by saying, *"Verily Allah intends to purify you, O the Ahlu'l-bayt, a thorough purification."* (33:33) Combine this verse about Ahlu'l-bayt's purity with the following: *"It is the holy Qur'an in a preserved tablet,, none shall touch it but the purified ones."* (56:79) This

shows that the Ahlu'l-bayt could understand the Qur'an better than any other follower of Prophet Muhammad (peace be upon him). Allay says, *"Say (O Muhammad), 'I do not ask from you any reward (for bringing the message to you) except to love my near ones.'"* (42:23) See that it is Allah who is commanding His messenger to ask the people to love his family. If they were not truthful, reliable, and worthy of following, would Allah command us to love them?

These few verses are enough to show that the best commentators of the Qur'an and the most authentic source for the Prophet's sunnah are the Imams of Ahlu'l-bayt. The Prophet himself said, "I am leaving among you two worthy things. As long as you hold on to them both, you will never be led astray after me. One of these two is greater than the other: the Book of Allah (which is a rope hanging from the heaven to the earth) and my descendants, my Ahlu'l-bayt. These two things will not separate from each other until they come to me at the (fountain of) Kauthar (in the hereafter). Therefore, see how you recompense me by the way you deal with them."

This is not the place to discuss about the authenticity of the above hadith, but it will suffice to quote Ibn Hajar al-Makki, a famous anti-Shi'ah polemicist. After recording this hadith from various companions who had heard it from the Prophet at various places and times, Ibn Hajar says, "And there is no contradiction in this [numerous reports] since there was nothing to prevent the Prophet from repeating [this statement] at those various places because of the importance of the holy Book and the pure Family." (Ibn Hajar al-Makki, *as-Sawa'iqu 'l-Muhriqah,* chapter 11 section 1. Also see S. Saeed Akhtar Rizvi, *Imamat*, Sharafu 'd-Din al-Musawi, *The Right Path,* and S.M.H. Jafri, *The Origin and Early Development of Shi'a Islam.)*

We can conclude from these verses and the *hadith* mentioned above that the Ahlu'l-bayt are the most authentic and the best source for the *sunnah*, and therefore we prefer them to all other sources. Whenever we quote a *hadith* from the Imams of Ahlu'l-bayt, it is not actually from themselves, instead it is the *hadith* of the Prophet which they have preserved as the true successors of the last messenger of God. Imam Ja'far as-Sadiq (a.s.) says: "My *hadith* is the *hadith* of my father, the *hadith* of my father is that of my grandfather, the *hadith* of my grandfather is that of al-Husayn [bin 'Ali], the *hadith* of al-Husayn is that of al-Hasan [bin 'Ali], the *hadith* of al-Hasan is that of Amiru 'l-mu'mimin ['Ali bin Abi Talib] (a.s.), the *hadith* of Amiru'l-mu'minin is that of the Messenger of Allah (s.a.w), and the *hadith* of the Messenger is a statement of Allah, the Almighty, the Great." (In Shi'ah sources, see al-Kulayni, *Usulu 'l-Kafi,* book 2 chapter 17, hadith No. 14; in Sunni sources, see ash-Sha'rani, at-Tabaqatu 'l-Kubra, vol. 1, p. 28; Abu Nu'aym, Hilyatu 'l-Awliya', vol. 3. p. 193, 197.)

Ijtihad & Taqlid: After the twelfth Imam al-Mahdi (a.s.) went into occultation, the responsibility of guiding the Shi'ahs in the *shari'ah* matters came upon the mujtahids, the religious scholars specializing in Islamic laws. The mujtahids derive the Islamic laws from the two sources mentioned above. This may sound very simple, but it is not so. They do not just open the Qur'an and the books of *hadith*, and start giving *fatwas* . They must first of all

come up with a methodology of *ijtihad* (discussed in a subject known as *usulu 'l-fiqh*).

In their methodology, the mujtahids decide how to study the Qur'anic verses and the *ahadith*. Should they take the literal meanings only? Have they to find out which verse came first and which came second on the same issue? Will the latter verse abrogate the former, or will it just put some limitations on it? Is every *hadith* to be considered authentic? If not, what are the means of verifying the authenticity of a given *hadith*? If they come up on two authentic but contradictory *ahadith* on a single issue, what recourse should be followed? All such problems have to be solved while designing the methodology of *ijtihad*, and only then can a mujtahid correctly and responsibly derive a law from the Qur'an and the *sunnah*.

It is obvious that not all have the ability or the time to specialize in the *shari'ah* laws; and therefore, for such people it is necessary to follow a mujtahid in the matters of *shari'ah*. This "following" is known as *taqlid*.

The Major Ablution
(Ghusl Janabat)

(This appendix has been adopted from Chapter Four of my Ritual & Spiritual Purity (1989) since it deals with the ablution related to sexual act.)

A. INTRODUCTION

"Janabat" is a ritual impurity caused by the discharge of semen or by sexual intercourse; and the person on whom *ghusl janabat* becomes wajib is known as *"junub"*. The Qur'an says:

> *O you who believe! Do not go near prayers (salat) when you are... junub until you have washed yourselves.* (4:43) *O you who believe! When you stand up for prayers (salat), . . . if you are junub, then purify (yourselves).* (5:6)

B. THE CAUSES OF *GHUSL JANABAT*

There are two causes of *janabat:*

1. Discharge of semen. It does not make any difference whether this discharge is while awake or in a wet-dream, slight or profuse, intentionally or otherwise, in lawful way or unlawful (e.g., masturbation). In all these cases *ghusl janabat* becomes obligatory *(wajib).*

If a liquid comes out from a man and he does not know whether or not it is semen, then he should look for the following three signs: (1) emission with passion; (2) spurting discharge; (3) feeling relaxed after the discharge. If these signs are found together on him, then he should consider the liquid as semen, otherwise not.

If a secretion is discharged from a woman, then it is precautionary wajib for her to do ghusl janabat provided it came with sexual passion *and* she felt relaxed after it. But if the secretion comes without the sexual passion or without the feeling of relaxation after the discharge, then it is not najis and therefore ghusl is not wajib upon her.

2. Sexual Intercourse. It does not make any difference whether the intercourse was lawful or unlawful, and with or without discharge of semen. In Islamic laws, sexual intercourse is defined as the penetration of the glans into the vagina or anus of the woman. That is, for ghusl janabat to become wajib it is not necessary that full penetration or discharge of semen should take place. In case of sexual intercourse, ghusl janabat becomes wajib on both the

man and the woman.

C. THE THINGS WHICH ARE FORBIDDEN FOR A JUNUB

There are certain things in Islam which are so sacred that a Muslim cannot come into contact with them unless he or she is ritually pure and clean. Based on this concept of sacredness, a *junub* is forbidden from coming into contact, in various ways, with two of the most sacred things in Islam: the Qur'an and the mosque.

The following four acts are haram for the junub before performing the ghusl. Two are related to the Qur'an and the other two are related to mosques.

1. *Touching the writing of the Qur'an,* the names and attributes of Allah, the names of the Prophet, the Imams and Fatimah (the daughter of the Prophet). This has already been explained on page 48 of this book.

2. *Reciting the verses of the Qur'an in which sajdah (prostration) is wajib.* These verses are: verse 15 of chapter 32; verse 15 of chapter 41; verse 62 of chapter 53; and verse 19 of chapter 96. It is better not to recite even a single verse from these chapters.

3. *Entering or staying in the mosque.* The Qur'an says, *"O you who believe!...Nor (are you allowed to enter the masjid) if you are junub until you have washed yourself except passing through."*(4:43) Based on this verse and relevant ahadith, the mujtahids have concluded that a junub is totally forbidden from staying in the mosque.

Of course, as the verse says, one can pass through the mosques (by entering from one door and leaving from the other). However, this exception of passing through does not apply to the following places: the Masjidu'l-Haram (the Sacred Mosque at Mecca) Masjidu' n-Nabi (the Mosque of the Prophet at Medina), and shrines of the Imams a junub cannot even pass through them. Jamil asked Imam Ja'far as-Sadiq (a.s.) whether or not a junub can sit in mosques? The Imam said, "No! But he may pass through all of them except the Sacred Mosque (at Mecca) and the Prophet's Mosque (at Medina)." (*Wasa'il,* vol. 1, p. 485.) Bakr bin Muhammad narrates that once he and his friends were going towards the house of Imam Ja'far as-Sadiq, when they met Abu Basir in the way. When Abu Basir came to know that they were going to visit the Imam, he joined them. As Bakr and his friends came to know later on, Abu Basir was in the state of janabat at that time. When they entered the house of the Imam and greeted him, the Imam looked towards Abu Basir and said, "O Abu Basir! Do not you know that a junub person should not enter the houses of the prophets?" (*Wasa'il* vol 1, p. 489.) Abu Basir himself has also narrated this incident and quotes the Imam as follows: "Do not you know that a junub should not enter the houses of the prophets and of their children..." (*Wasa'il* vol 1, p. 489-490.)

4. *Leaving something in or taking it out from a mosque.*

* * *

The following things are *makruh* (disliked) for the junub:

1. Eating and drinking is makruh for a junub except after doing wudu' or gargling or rinsing the nose.
2. Reciting more than seven verses from the Qur'an. This applies to other than the four chapters with wajib sajdah mentioned above.
3. Touching the cover of the Qur'an.
4. Sleeping except after doing wudu'.

D. THE ACTS WHOSE VALIDITY DEPEND ON *GHUSL JANABAT*

1. Salat (prayers) except *salatu'l-mayyit* (the prayer for a dead Muslim) which can be performed even in the state of janabat.
2. *Wajib tawaf*(the circumambulation of the Ka'bah in hajj). Allah says, "And We assigned Ibrahim and Isma'il to purify My House for the circumambulators (of the Ka'bah)..."(2:125; 22:26) It is not difficult to infer that if the House is to be cleaned and purified for tawaf, then the people who will be doing the tawaf must also be clean and pure. See also section H in wudu.
3. Fasting. If someone knowingly remains junub until dawn in Ramadan, his fasting will become invalid (*batil*).

E. MANNER OF PERFORMING GHUSL

Ghusl is a ritual bath; it involves washing of the whole body. There are two methods of performing ghusl. One is known as *ghusl tartibi,* and the other is known as *ghusl irtimasi.*

1. Ghusl Tartibi:

"Ghusl tartibi" means an ordinal bath, performed in three stages.

After washing away the najasat (e.g., semen or blood) from the body and after *niyyat*, the body has to be washed in three stages: First, head down to the neck; then the right side of the body from the shoulder down to the foot; and lastly, the left side of the body.

Each part should be washed thoroughly in such a way that the water reaches the skin. Special care should be taken while washing the head; the hair should be combed (e.g., with your fingers) so that water reached the hair-roots. While washing the right side of the body, some part of the left side must be washed too, and also, while washing the left side of the body, some part of the right side must be washed.

2. Ghusl Irtimasi:

"Ghusl irtimasi" means a bath involving immersion of the whole body in the water. It is needless to say that such a ghusl can only be done in a body of water, e.g., a pool, river, lake

or sea.
After washing away the semen or blood from the body and after *niyyat*, the whole body should be completely immersed in the water all at once, not gradually. One has to make sure that the water reaches all parts of the body, including hair and the skin under it.

However, *ghusl tartibi* is preferred to *ghusl irtimasi*.

F. RECOMMENDABLE ACTS OF *GHUSL*

What has been mentioned above are the wajib acts of ghusl; here we shall explain the things which are recommendable *(mustahab, sunnat)* during the ghusl. These recommendable acts are five:

1. Washing both hands up to the elbows three times before the ghusl.
2. Gargling three times.
3. Wiping the hands on the whole body to ensure that every part has been thoroughly washed.
4. Combing the hair with the fingers to ensure that the water reaches the hair-roots.
5. (For men only) Doing *istibra'* before ghusl janabat. *Istibra'*, in the present context, means "urinating." The benefit of *istibra':* If a liquid comes out of one's penis after completing the ghusl, and he doubts whether it is semen or urine, then should he repeat the ghusl or not? If he had done *istibra'* before the ghusl, then he can assume that the liquid is urine he will not have to repeat the ghusl; he just has to do wudu for his salat. But, on the other hand, if he had not done istibra' before the ghusl, then he has to assume that it is the remnant of semen he will have to do the ghusl again.

'Ubaydullah al-Halabi narrates that someone asked Imam Muhammad al-Baqir (a.s.) about a man who performs ghusl and then finds some (doubtful) drops (on his penis) while he had already urinated before performing the ghusl. (That is, should he consider the drops as urine or semen?) The Imam said, "He will just have to do wudu (for hi s salat). But if he had not passed urine before the ghusl, then he must repeat the ghusl." (*Wasa'il*, vol. 1, p. 517.)

This rule of *istibra'* applies only to men. Sulayman bin Khalid asked Imam Muhammad al-Baqir (a.s.) about a man who became ritually impure because of sexual intercourse and then performed ghusl without urinating. Then some drops came out of him . The Imam said, "He must repeat the ghusl." Sulayman: "What if similar drops come out of a woman after she has performed ghusl?" The Imam said, "She does not have to repeat the ghusl . " Sulayman: "What is the difference between the two?" The Imam said, "(A woman does not have to repeat ghusl janabat) because what comes out of her is certainly from the (remnants of the) discharge of man." (*Wasa'il*, vol. 1, p. 482.)

G. A SUMMARY OF *GHUSL*

This is a summary of ghusl. The recommendable acts of ghusl are in italics type-face.

1. Remove the najasat (semen, blood) from the body.
2. Niyyat.
3. *Wash the hands up to the elbows three time.*
4. *Gargle three times.*
5. Wash the head down to the neck; *wipe your hand on the face and neck, and comb the hair with your fingers.*
6. Wash the right side of your body from the shoulders down to the feet; *include some part of the left side also. While washing, wipe the body with your hand.*
7. Wash the left side of your body from the shoulders down to the feet; *include some part of the right side also. While washing, wipe the body with your hand.*

Glossary of Frequently Used Terms

HARAM: forbidden, prohibited. It is necessary to abstain from the acts which are haram. If someone performs a haram act, he will be punished either by the Islamic court or in the hereafter or both.

IHTIYAT WAJIB: precautionarily wajib. Its significance is the same as that of wajib with the difference that whenever a mujtahid says that "it is precautionarily obligatory," his followers have the option of leaving his taqlid (following) in that particular problem and following the fatwa of the second best mujtahid provided the latter has a different opinion.

JA'IZ, HALAL, MUBAH: permitted, allowed, lawful, legal. The acts or things which are permitted and lawful. There no reward for performing it nor any punishment for neglecting it.

MARJA' (pl. MARAJI'): literally, it means the point of reference. It is used to describe the high ranking mujtahids who are a point of reference for the people.

MAKRUH: reprehensible, disliked, discouraged: It is used for the acts which are disliked but not haram. If one does a makruh act, he will not be punished; however, if he refrains from it, then he will be rewarded

MUJTAHID: or FAQIH (pl. FUQAHA'): a jurist, a religious scholar who is an expert of Islamic laws, the shari'ah. Usually it is used for the high ranking mujtahids who are followed by the people.

SUNNAT or MUSTAHAB: recommended, desirable, better. It refers to the acts which are recommended but not wajib . If one neglects them, he will not be punished; however, if one performs them, he will be rewarded.

WAJIB: obligatory, necessary, incumbent. An act which must be performed. One will be punished for neglecting a wajib act, e.g., the daily prayers.

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